



Hawaiian Islands Humpback Whale National Marine Sanctuary

Sanctuary Advisory Council

Fifty-fourth Meeting

Tuesday, February 3, 2009

1:00 p.m. to 4:30 p.m.

Honolulu International Airport

Inter-Island Conference Center

NON-GOVERNMENT

(Voting)

Jim Coon
Business and Commerce

David Hoffman
Citizen-At-Large

Dale Hazlehurst
Commercial Shipping

Louis M. Herman, Ph.D.
Conservation

Liz Kumabe
Education

Robert Bruck
Fishing

Luana Howell
Hawai'i County

William A. Friedl
Honolulu County

James Yamamoto
Kaua'i County

Cheryl Sterling
Maui County

Pohai Kirkland
Native Hawaiian

Teri Leicher
Ocean Recreation

Adam Pack, Ph.D.
Research

Michael Stanton
Tourism

Reginald A. White
Whale Watching

GOVERNMENT

Marnie Meyer
DBEDT - OP

Elizabeth Corbin
DBEDT Ocean Resources

Athline M. Clark
DLNR - DAR

Vacant
DOH

Dean Watase
DOT - Harbors

Gene Brighthouse
Fagatele Bay NMS

Jerry B. Norris
OHA-Voting

Jeff Pollack
NMFS - Law Enforcement

Lisa Van Atta
NMFS - PIRO

'Aulani Wilhelm
Papahānaumokuākea MNM

Eric Kingma
WESPAC-Voting

Cindy Barger
US ACOE

Eric Roberts
US Coast Guard

Rebecca Hommon
US Navy

FINAL MINUTES

Attendance

Primary Council Members Present:

Cindy Barger, Bob Bruck, Jim Coon, Bill Friedl, Dale Hazlehurst, Lou Herman, David Hoffman, Becky Hommon, Luana Howell, Pohai Kirkland, Liz Kumabe, Teri Leicher, Naomi McIntosh, Marnie Meyer, Jeff Pollack, Eric Roberts, Mike Stanton, Cheryl Sterling, Lisa Van Atta, Jeff Walters, Reg White, James Yamamoto

Alternate Council Members Present:

Bill Anonsen, Keeley Belva (for Aulani Wilhelm), Kelly Finn (for Eric Kingma), Kevin Grant (for Gene Brighthouse), Marc Lammers (for Adam Pack), Terry O'Halloran, Kathy Yim (for Liz Corbin)

Excused:

Jackie Burke, Athline Clark, Liz Corbin, Jerry Norris, 'Aulani Wilhelm
Seat vacant for Department of Health

Others Present:

HIHWNMS: Christine Brammer, David Mattila, Patty Miller, Joseph Paulin, Jean Souza, Paul Wong

ONMS: Dan Basta, Tom Culliton, Ed Lindelof, Sarah Marquis, Jim Sullivan

Distributed Materials

- Meeting #54 Information Packet
 - Table of Contents
 - Meeting Agenda
 - Action Items Report
 - Chair's Report
 - Hawai'i County Report
 - Kaua'i County Report
 - Maui County Report
 - Conservation Committee Report
 - Education Committee Report
 - Research Committee Report
 - Aquaculture Working Group Report

- Blue Seas, Green Communities Working Group Report
- Meeting #53 Draft Minutes (June 12, 2008)
- Additional Materials (Provided Separately)
 - Sanctuary Manager's Report
 - Sanctuary Co-Manager's Report
 - Conservation Committee Report (Additional)
 - Definition of "Take" Handout
 - Hawaii Superferry (HSF) and NOAA Section 10, Incidental Take Permit Process Handout by HSF
 - Office of Inspector General Report on Enforcement
- Additional Materials Available (Optional)
 - Boating and Ocean Use Guide
 - *Kohola Connection* – Sanctuary Newsletter
 - Humpback Whale Month Fact Sheet and Event Calendars
 - The First International Marine Mammal Protected Areas Conference Information

Call to Order

This Council Meeting will focus on developing priorities for the 2009 whale season.

Council Chair Bill Friedl called the meeting to order at 1:00 p.m. Teri Leicher then took role.

Approval of Meeting Minutes

Minutes from the council's June 12, 2008 meeting were distributed for comments. Mike Stanton made a motion to approve the minutes and Bob Bruck seconded the motion. The minutes were approved as issued.

Public Forum

Bill Friedl asked the members of the public to introduce themselves and called for any public comments.

Discussion on Reports and Updates

Chair's Report:

Bill Friedl submitted a written report (see attachment 1). He reiterated comments provided by ONMS Director Dan Basta in the morning council session and asked that council members think about their roles in ocean protection because the oceans need our help.

Bill acknowledged the hard work the council has done in the past year and stated that he looks forward to working with everyone.

Sanctuary Manager:

Naomi McIntosh submitted a written report (see attachment 2). Naomi announced the list of members and alternates that were recently selected for the council. She thanked those that completed a 2-year term by awarding certificates. She also thanked Bill and the rest of the executive committee for their work in between meetings since it has been awhile since the council met.

Naomi briefly reviewed her written report and discussed priority projects including a cd compilation project that will be used as a fundraiser project to support marine-related

field trips for Hawaii schools. She also stated that the next council meeting is tentatively planned for between April 6th – 18th and will be held on Maui in conjunction with the opening of the new multipurpose building.

Naomi mentioned the patrol guide that was put together by the ONMS Aviation Coordinator, Matt Pickett, for the US Coast Guard's aerial surveillance efforts within the sanctuary and provided an update on the Grays Harbor Energy Project.

Sanctuary Co-Manager:

Sanctuary Co-Manager, Dr. Jeffrey Walters, submitted a written report (see attachment 3). Jeff summarized items from his report including the work that the state has been doing related to Hawaiian monk seals. He also reported that there have not been any reports of vessel-whale collisions yet this whale season. Jim Coon mentioned that operators are doing their best and are conscious of the issues.

The discussion moved to the status of the rulemaking on spinner dolphins by NOAA Fisheries. Different options are being explored for dolphin protection including the Dolphin SMART program model from Florida. The Pacific Islands Photo Identification Network (PIPIN) program was also discussed that provides data related to spinner dolphin populations.

Conservation Committee:

Lou Herman, Conservation Committee Chair, submitted a written report as well as recommendations on the draft statewide large-capacity ferry environmental impact statement, protecting the Penguin Bank humpback whale habitat, and the International Whaling Commission (see attachment 4).

Lou discussed the importance of the subpopulations of the North Pacific stock of humpback whales. The council decided to address the recommendations in the conservation report next instead of waiting until the new business portion of the meeting. Naomi McIntosh was asked to clarify the procedure for the council submitting comments. Naomi confirmed that letters can be sent to the sanctuary management and the council can request forwarding the recommendations to the director of the Office of the National Marine Sanctuaries.

The first topic of discussion focused on the downlisting of humpback whales by the International Whaling Commission.

Jim Coon made a motion that the council draft a letter, based on the content provided by the Conservation Committee, to the sanctuary management expressing the council's concern regarding the potential downlisting of North Pacific humpback whales. The council also requested that the letter be forwarded to the Office of National Marine Sanctuaries and to the appropriate representative of the International Whaling Commission. Reg White seconded the motion. Motion carried unanimously.

Discussion then moved to Penguin Bank. Lou stated that Penguin Bank is one of two principal breeding grounds for humpback whales in Hawaii and any disturbance of that habitat must be considered by the council. A recent proposal by Gray's Harbor includes a plan to install over 100 offshore platforms to create wind and wave energy.

Jim Coon made a motion to draft a letter to Gray's Harbor stating the council's opposition to development of any type on Penguin Bank because of the importance of

the area as significant habitat to humpback whales. Copies of the letter will also be sent to appropriate agencies (Army Corps of Engineers Regulatory Program, Legislature, Water and Land Committees in both state houses, etc.). Bob Bruck seconded the motion which carried unanimously.

Bill Friedl asked if Jeff Walters could provide a list of state agencies and others that should receive copies of the letter.

Discussion on the topic included that the main point behind the letter should be based on the general principle that this is a vital habitat for whales that needs to be protected. It was also pointed out that Penguin Bank is prime bottom fishing grounds. Discussion also focused on the fact that the purpose of commenting is two-fold, to inform natural resource managers of concerns and to keep company's from investing too much economically before knowing about the sanctuary's concerns. Naomi McIntosh also pointed out that some national marine sanctuaries require permits for projects of this type that alter the seabed. The management plan review process allows the sanctuary to consider changes to its regulations. Additional comments focused on permitting by the Army Corps of Engineers and on the authority of the Federal Energy Regulatory Commission.

The third recommendation of the Conservation Committee related to the Draft Statewide Large-Capacity Ferry Environmental Impact Statement. The deadline for comments is February 23, 2009. Relevant issues are detailed in the attached Conservation Committee report (attachment 4). Lou Herman also noted that the ferry has applied for a Section 10 Incidental Take Permit under the ESA. He distributed a document that detailed the definition of a "take" according to the Marine Mammal Protection Act and the Endangered Species Act (see attachment 5).

Lou Herman reviewed the proposed responses drafted by the committee. A motion to wait to comment until the public comment opportunity in the Section 10 ESA process was made by Becky Hommon and was seconded by Reg White but was withdrawn after discussion since it was unknown when the Section 10 comment period would be open and some members expressed concern over the council not expressing an opinion.

Marc Lammers then made a motion that the council send a letter to comment on the Draft Statewide Large-Capacity Ferry Environmental Impact Statement. Specifically, large-capacity ferry operations within the Hawaiian Islands Humpback Whale National Marine Sanctuary; concurring with option C that states that the ferry maintain speeds of 25 kn or less when routing through Sanctuary waters, maintain onboard designated observers, and recommends that the ferry continue to avoid passage through Sanctuary waters except for reasons of passenger safety and to reduce speed to less than 25 kn when such routing becomes necessary. The motion was seconded by Bob Bruck. The motion carried with 12 ayes, 4 abstentions (Bill Friedl, Dale Hazlehurst, Kelly Finn, and Reg White), and 1 absent (Jerry Norris).

Education Committee:

Liz Kumabe, Education Committee Chair, submitted a written report (see attachment 6). Liz stated that most of the discussions of the Education Committee has focused on reviewing education programs. Committee members were given opportunities to learn about the variety of programs that are currently being conducted by staff on different islands. She also mentioned that the committee would be looking for opportunities on how to reach out to engage people in scoping meetings and mentioned technology as

an option. Liz also mentioned that she would like to see how we can make our committees more efficient. She pointed out that education and outreach is more than formal education in schools and it involves a broader audience.

Research Committee:

Adam Pack, Research Committee Chair, provided a written report (see attachment 7). Marc Lammers represented Adam Pack at the meeting and stated that he would stand by the submitted report that describes the conference calls that took place. This report includes a list of permitted humpback whale researchers in Hawaii that was compiled by David Nichols State Sanctuary Operations Coordinator. It also includes an updated list of humpback whale related literature.

Aquaculture Working Group:

Mike Stanton, Aquaculture Working Group Chair, provided a written report (see attachment 8). Mike mentioned that no information was received from Maui Fresh Fish. Jeff Walters discussed that he met with Dr. McVeigh of Indigo Seafood regarding a proposal on the Kohala coast, south of Kawaihae (see page 6 of the Sanctuary Co-Manager's Report, Attachment 3). Mike Stanton will follow-up with Dr. McVeigh.

Teri Leicher asked if the council could release a statement regarding these types of requests. The Channel Islands National Marine Sanctuary report on open ocean aquaculture was mentioned and will be distributed to council members by Acting Council Coordinator Christine Brammer. Naomi mentioned that marine zoning could be considered as part of the Management Plan Review process that the sanctuary will be conducting.

Blue Seas, Green Communities Working Group

Teri Leicher, Blue Seas, Green Communities Working Group Chair, resubmitted a one-pager (see attachment 9) that lists projects that are being considered. For next steps Teri would like to begin offering information on greening on the sanctuary's website.

The following additional reports were submitted and are available as attachments:

- **Hawai'i County report**, submitted by Luana "Nan" Howell, Hawai'i County Representative (see attachment 10)
- **Kauai County report**, submitted by James Yamamoto, the Kauai County Representative (see attachment 11)
- **Maui County report**, submitted by Cheryl Sterling, Maui County Representative (see attachment 12)

Bill Friedl recognized James Yamamoto for his recent donation of binoculars to the Kauai education program. He then asked if there were any comments or questions related to the county reports.

Nan Howell mentioned her participation as a site leader in the Sanctuary Ocean Count project and discussed how many whales were seen from the Lapakahi location.

Dale Hazlehurst mentioned that the commercial shipping industry is interested in receiving educational materials from the sanctuary.

New Business

Management Plan Review

Bob Bruck made a motion to endorse the plans for the sanctuary's management plan review. Jim Coon seconded the motion. Motion carried unanimously. There was no discussion.

Draft Statewide Large-Capacity Ferry EIS

This new business item was addressed when the Conservation Committee Report was presented. Jeff Walters mentioned the recommendations that are detailed in the Sanctuary Co-managers report (attachment #3). Bill requested that this topic be deferred to the research and conservation committees for specific comments and discussion. Terry O'Halloran distributed a handout on the NOAA Section 10 Incidental Take Permit Process for the Hawaii Superferry (see attachment #13).

Habitat Utilization in the Sanctuary

This new business item was addressed when the Conservation Committee report was presented.

Council Charter Expiration – October 2009

Bill Friedl stated that the executive committee will review the current charter and bring any changes before the council.

OIG Report Recommendations

A recommendation from the Office of the Inspector General report that reviewed the National Marine Sanctuary Program was discussed. It requests advisory councils to create enforcement working groups. This topic will continue to be discussed by the Executive Committee. Cindy Barger mentioned a similar group related to the Coral Reef Task Force.

2009 Meeting Schedule

The next meeting will be planned for April. It is scheduled to be held between April 6th and 17th and will be held in conjunction with the grand opening of the multipurpose building. A meeting will also be held in early June. June 3rd and June 8th were mentioned as options.

Other New Business

Bill Friedl called for any additional new business. Marc Lammers drew attention to page 5 of the Sanctuary Co-Manager's Report and asked council members to review the three bullet points listed (see attachment #3).

After some discussion, David Hoffman made a motion that the council go on the record to support the task force's recommendations to 1) conduct a study to evaluate the large-capacity ferry's whale avoidance policy, 2) conduct a fly over study of the marine mammals in the Hawaiian Islands, and 3) request that the superferry provide scatter logs November through May of each year to the Department of Land and Natural resources and other appropriate agencies. Bob Bruck seconded the motion. It was confirmed that this letter would be sent to sanctuary management and sanctuary management would be asked to share the information with appropriate agencies (Governor, State legislature, Department of Transportation, task force, etc.). The motion carried unanimously.

In other new business Reg White informed the council of two bills that are in the State House (House Bill 83 and House Bill 1765). Each bill varies slightly but would require the completion of a safety course before operating a motor boat in the Hawaiian Islands. Reg said that although in his opinion House Bill 83 is better a combination of the two would be best. The safety course would apply to motor boats and non-motorized vessels of over 20 feet in length.

Reg White made a motion that the council support the combining of HB 1765 and HB 83 to include thrill craft and to include non-motorized craft of over twenty feet in length and also to include education on safe boating practices around marine mammals in the boating safety course. Bob Bruck seconded the motion which passed unanimously.

Public Forum

There were no public comments at this time.

Announcements

Keeley Belva notified the council that the Papahānaumokuākea Marine National Monument management plan is complete and is available on the monument's website.

Cindy Barger notified the council about a planning project for a small boat marina. She will share more info at next meeting. She also discussed a project with the West Maui watershed and stated that updated marine surveys are being conducted in Maalaea and there will be another EIS and scoping meetings. Cindy also stated that the Army Corps of Engineers is hiring people in the areas of flood management, regulatory, environmental support, etc.

Dave Hoffman announced that the USCG foundation is holding a special fundraiser on March 12th at the Hilton Hawaiian's Coral Ballroom. Dave is the point of contact if anyone would like to participate.

Lou Herman mentioned that he has been contacted by Discovery Channel regarding some of Dolphin Institute's work.

Jim Coon reported that the sanctuary visited the island of Lanai and conducted outreach in November at an event that most of the community attends. Jim is interested in getting schools to integrate marine curriculum into their lessons.

Teri Leicher thanked Justin and Naomi for the presentation the sanctuary gave to her environmental committee on the Big Island.

Becky Hommon announced that the rules for the U.S. Navy have been published and are available on NOAA's website.

Adjournment

Mr. Friedl adjourned the meeting at 3:50 p.m.

Attachment 1

Chair's Report ***Bill Friedl***

Hope you all had a restful and enjoyable holiday season. This report to the SAC is built upon the Chair's Report to the ExecComm to help focus our discussion going into 2009. With the budget crunch likely to continue, I think it's particularly important for the SAC to get the most out of our meetings. First up, however, is some leftover business from 2008.

Christine reminded me that we "owed" Dan Basta a year-end report. The reminder and my response to Dan Basta follows:

Due by December 31st

- Council input on 2009 Sanctuary Advisory Council Summit agenda distributed in October from Dan via email to staff and mailed to council chairs. If your council opts not to provide input, that is fine.
- Council input on the concept of a national role for council chairs, per Dan's July letter mailed to the council chairs (sent via email to staff). If your council opts not to provide input, that is fine.
- Submission of case study abstract – from Dan in same communication as agenda. If your council opts not to submit an abstract, that is fine.

We have been below the power curve this year. I think the cause is partially from a systemic glitch with the HIHWNMSAC and partially a consequence of the budget crunch and cut back on meetings. I hope to deal with the former more effectively in 2009 and the latter is what it is and is beyond my control.

Bottom line: the HIHWNMSAC has not discussed the items listed above and consequently, we have no input for the summit, national roles, or case study consideration.

The message to Dan got me thinking: did the SAC have a successful year in 2008? I think it's hard to say whether we did well or fell short of the mark without specific benchmarks or targets, but we managed to "answer the mail" and respond to most of the "assignments" from NOAA. Personally, I was not entirely satisfied with the results of the "visioning session" where (it seems to me) we voted down the only "visionary" proposal on the table in favor of generalizations and platitudes. Be that as it may, what about the SAC for 2009? At the meeting Tuesday, I would like the ExecComm to come up with a consensus view of how we should proceed in 2009.

As I see it, we have a choice among three options: discussion group, policy review board, or management advisory body. I think the options overlap and that we function somewhat in all three but we might be able to tweak our technique a bit to help Sanctuary management effectively navigate these tricky times. I also believe that the ExecComm should take the lead in considering The Future SAC: do we adjust the membership further (constituencies represented and/or eliminate the position of Alternate members); do we entertain the concept of a single Pacific Island Regional Sanctuary Advisory Council; and what kind of relationship do we want with the Papahānaumokuākea Marine National Monument Advisory Council?

These are certainly among the issues that are roiling around "out there" beyond the more immediate SAC concerns. And what might those more immediate concerns be? I see three large that the SAC should deal with as expeditiously as possible: the added species question, the Superferry EIS, and the Grays Harbor windmill proposal. Personally, I now believe that the future of our Sanctuary depends upon the Sanctuary becoming a multi-species, Hawaiian Island Marine Mammal Marine Sanctuary. I further believe that the management and staff are fully capable of maintaining needed focus from the humpback whales and the other endangered species in the Sanctuary, however they will have to manage all this with little if any budget bump. The Superferry EIS raised several questions: why should the Superferry transit Sanctuary waters at greater than 14 kt if NOAA has said that the higher speeds constitute an increased hazard to the whales? Is the Superferry plan for observation and warning in low light or darkness adequate? Is the proposed "take" of 10 appropriate? The Superferry makes a big deal out of a so-called "endorsement" of

their avoidance plan from the Sanctuary -- is that something we want to continue? I would hope that the SAC could give the EIS proper consideration and that we can respond with concerns (if any) during the comment period. Finally, the Grays Harbor outfit's application for leasing "rights" to Penguin Bank for large, moored "wind factories" flies directly against everything the Sanctuary represents. The Penguin Bank is critical whale habitat and I would hope that the SAC could formulate a united front against permitting any moored object within the Sanctuary waters of Maui Nui/Penguin Bank. But if the SAC shares my view, we must act and act quickly. I have asked the appropriate Committee Chairs to discuss these issues and try to produce actionable recommendations for the full SAC at the next meeting.

Speaking of the next meeting, the ExecComm discussed the year's schedule and concluded that in light of the pressing issues, deadlines for responses and budget limitations, we should start the year with a business meeting and postpone the retreat to a later date. Our February meeting will have a full agenda and feature an opening session with Dan Basta to set the course for the upcoming Management Plan Review. I think that Naomi and the Sanctuary staff have come up with a good plan for moving the MPR down the line with full participation and input of the SAC and public and the February meeting will lay the foundation for the plan itself. It will be a full and action-packed day but I think if we all participate with an eye on setting the foundation for the MPR and our SAC year, we should be able to pull it off with our usual goodwill and aplomb.

My final thought is from the National Marine Sanctuary Foundation's description of our Sanctuary: *Hawaiian Islands National Marine Sanctuary lies within the shallow, warm waters surrounding the main Hawaiian Islands and constitutes one of the world's most important humpback whale habitats. Scientists estimate that two-thirds of the entire North Pacific humpback whale populations migrate to Hawaiian waters each winter to engage in breeding, calving and nursing activities.* The Foundation also notes that *Every National Marine Sanctuary is unique in the protection it provides. Sanctuaries are what you make them.*

I subscribe to the Foundation's thinking and hope we can make our Sanctuary a better place in 2009. Whatever we do, we will need to do it quickly and without lavish support from NOAA.

I look forward to working with each of you for a productive and successful SAC year.

Aloha,

Bill

Attachment 2

Sanctuary Manager's Report *Naomi McIntosh*

Hawaiian Islands Humpback Whale National Marine Sanctuary Advisory Council Manager's Report

Sanctuary Program Updates

Management Plan Review

The Sanctuary is working to complete the following next steps for the Management Plan Review (MPR): MPR Initiation Workshop (Feb. 2009); Condition Report Released (August 2009); Public Scoping meetings (August 2009).

Aerial Surveys for the MHI

At our last SAC meeting (June 12, 2008), Dr. Mobley provided a detailed presentation on aerial surveys that have been conducted in the main Hawaiian Islands (MHI) to assess distribution and abundance of marine mammals. Seventeen species have been observed from the aerial surveys. Last year, the Sanctuary worked with Dr. Mobley to submit a proposal to the National Fish and Wildlife Foundation to conduct aerial surveys to collect information on marine debris and marine mammals. Unfortunately, the proposal was not selected for funding.

In 2009, the Sanctuary will continue to collaborate with Dr. Joe Mobley to seek funding opportunities to conduct aerial surveys to update data on humpback whales and other marine mammals for the MHI.

The First International Conference on Marine Mammal Protected Areas

The Hawaiian Islands Humpback Whale National Marine Sanctuary (HIHWNMS) is hosting the First International Conference on Marine Mammal Protected Areas, March 30 – April 3, 2009 at the Grand Wailea Resort, Maui, HI, USA. The conference will feature Symposiums (presentations around themes), and panels (more specific themes with Q & A) and workshops to move ideas forward. Most Symposium presentations are set, but the make up of the panels and workshops is still being put together, and will depend on the convener of each panel or workshop, and whether participants have travel funding (as we currently only have that for symposium presenters and conveners). The outline of the program will be online shortly at (www.ICMMPA.org).

CD Compilation

At the last SAC meeting, I introduced a new partnership with Grammy award winning musician Daniel Ho and Outrigger Hawaii Hotels and Resorts. Daniel has produced an original slack key guitar composition that will be featured in an audio CD compilation of Hawaiian musicians entitled "Kai Palaoa" which will be a fundraiser. In addition, local artist and clothing designer Sig Zane created an original design for the year of the reef and a portion of proceeds from that design will also go towards supporting sanctuary education programs. The CD is in production and is scheduled to be released by the end of this month and will feature the following artists: Jack Johnson, Makaha Sons, Tia Carrere, Kawaikapuokalani Hewett, George Kahumoku, Jr., David Kahiapo, Pali, Herb Ohta, Jr., Steve Sano.

KFP Grand Opening and Maui SAC Meeting

At the last meeting, the SAC requested to hold a future Council meeting on Maui so that members could visit the Maui site and become familiar with its operations. The Sanctuary is planning the Grand Opening of the new multipurpose building at the Kihei site in April 2009 and is proposing that the SAC meeting be held in conjunction with this event.

Enhanced NOAA OLE and Coast Guard support for Sanctuary enforcement

NOAA OLE provides dedicated seasonal support to the Sanctuary to enforce regulations to protect humpback whales in Hawaiian waters. This year, NOAA OLE has worked closely with Sanctuary staff to station rotating NOAA OLE personnel on Maui, Kauai, Big Island and Oahu. In addition, NOAA OLE has requested increased USCG support for humpback enforcement and monitoring. As part of this effort, the ONMS Aviation Operations Coordinator, Matt Pickett coordinated and developed the HIHWNMS USCG Aerial Patrol Guide. The guide provides a summary of sanctuary regulations and includes maps, aerial photos of humpback whales, and points of contact. The guide was delivered to CG Air Station Barbers Point this week and will provide a valuable tool to aircrews conducting surveillance missions in the Sanctuary. Last month, Matt Pickett and David Mattila, Sanctuary Science Coordinator provided training on the use of the Aerial Patrol Guide.

Humpback Whale Awareness Month

February has been proclaimed Humpback Whale Month in Hawai'i by Governor Lingle and Lt. Governor Aiona! An official proclamation was developed and is available on the sanctuary website.



(New logo developed for Humpback Whale Month)

The public is invited to get involved in this special statewide campaign that aims to increase awareness about the sanctuary and humpback whales.

The following is included in this year's Humpback Whale Month Campaign:

- Students in grades K-8 are invited to take part in the 2009 Humpback Whale Month Ocean Contest art, poetry and short story contest. All participants will become members of the Ocean Guardian Kids Club.
- Local libraries will be featuring informational materials on humpback whales as well as a list of recommended books on humpback whales and the ocean. Selected libraries will also be showing a special video presentation on humpback whales along with a short presentation on the sanctuary.
- Additional materials including a humpback whale fact sheet, event calendars, and a web page were also developed especially for this project.
- Media announcements including calendar of events information and radio public service announcements.

Sanctuary Ocean Count

Over 650 volunteers gathered data from the shores of Oahu, Kauai, the Big Island, and Kahoolawe for Saturday's annual Hawaiian Islands Humpback Whale National Marine Sanctuary Ocean Count. Participants tallied humpback whale sightings and documented the animals' surface behavior during the survey. The sanctuary, which is managed by NOAA, protects humpback whales and their habitat in Hawaiian waters where they migrate each winter to mate, calve, and nurse their young.

Volunteers collected data from 56 sites statewide. Every 15 minutes, an average of 8 whales were counted per site statewide. The following are the average numbers of whales sighted per 15-minute count period on each of the islands:

- O'ahu – **4** whales
- Kaua'i – **8** whales
- Big Island – **5** whales
- Kaho'olawe – **14** whales

Weather conditions were excellent for viewing humpback whales around the state. Other marine wildlife seen during the Ocean Count included Hawaiian monk seals, sea turtles, spinner dolphins, and a variety of sea birds.

Two more Sanctuary Ocean Counts are scheduled to take place on Saturday, February 28 and March 28. For more information on becoming a Sanctuary Ocean Count volunteer, contact the appropriate sanctuary office. On the Big Island, call 1-888-55-WHALE ext. 253. On Oahu, call 397-2651 ext. 253. On Kauai, call 1-808-246-2860.



Photo: Paul Wong



Photo: Paul Wong

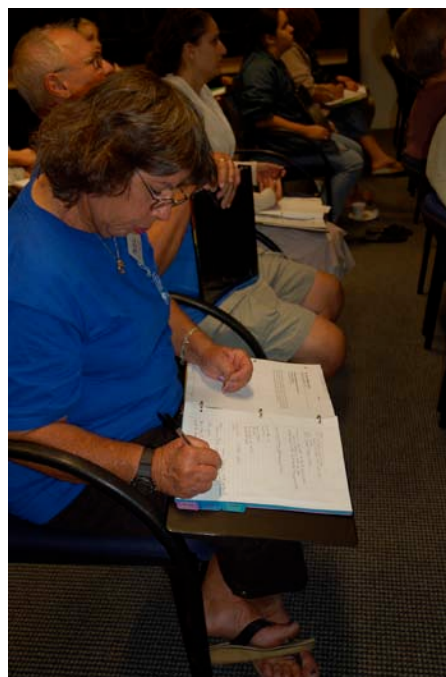
Ocean Awareness Training on Oahu

The Hawaiian Islands Humpback Whale National Marine Sanctuary joined forces with fourteen other marine conservation organizations on O'ahu to offer a special Ocean Awareness training. This six-session course provided multi-disciplinary knowledge of Hawai'i's unique marine environment.

The training was free and open to the public. Fifty participants were accepted into the first class and over 150 participants were waitlisted for future classes. The Ocean Awareness Training was recommended for those volunteering or working in the field of marine education or tourism or for those interested in doing so.

This program is modeled after a program that began on Maui in 2006. The first training on O'ahu covered various topics including marine mammals of Hawai'i and coral reef biology and ecology. Participants also learned essential interpretive skills and had an opportunity to learn more about current ocean conservation efforts and find out how to get involved on O'ahu.

Participants were required to attend each of the six sessions and take part in one field project in order to receive C.O.R.A.L. certification (Care of our Culture, Oceans, Reefs and Animal). The graduation ceremony for participants was held on December 6, 2008 at the Hanauma Bay Nature Preserve. Forty participants completed the course and received their certification.



2008-2009 Season Summary of Large Whale Entanglement Reports and Response Efforts to Date

Summary:

- To date there have been six confirmed reports of humpback whales entangled in gear.
- Two reports involved adults, three were subadults and one animal's age class was not determined.
- Most of the reports were in the lee of Maui, one was off Oahu, and one off Kauai.
- The Sanctuary has mounted six on-water responses to four of these reports.

12/13/08: Entangled adult humpback whale off Coral Gardens, Maui



The animal entangled in heavy gauge polypropylene line (floatline) from forward and right side of body (mouth or flipper?). Line drapes across back to left side where it forms a bundle of gear alongside tailstock. Smaller gauge (1/2") sinking line also originates forward on right side and runs along right side of animal as well as to bundle on left side. These lines along with another size line trail aft approximately 40 feet.

A response effort was mounted by the Hawaiian Islands Humpback Whale National Marine Sanctuary and NOAA Fisheries. On the first effort a telemetry buoy was attached to the trailing gear. The animal was re-located the next day and 115 feet of line (approximately 1/3 of line on animal) was removed. The telemetry buoy was re-attached, but several days later as the animal crossed Penguin Bank, and after having travelled more than 93 nm (in 73 hours), the telemetry package became detached. The Sanctuary response team recovered the telemetry package, but unfortunately no entangling gear was recovered with the package. The animal has not been re-sighted.



12/24/08: Subadult humpback whale entangled off Kauai



Subadult humpback whale observed and photographed on Dec. 24 by passenger on tour vessel later noticed that images taken of animal indicated it was entangled. Animal entangled in heavy gauge line at least around fluke blades, though may involve other parts of body. Lines causing significant trauma to flukes. Animal emaciated and in poor condition. A heavy load of cyamids exist at least on the tailstock region of the body.

No response was mounted due to nature (belatedness) of report. Images were obtained from passengers of tour vessels for assessment. The animal has not been re-sighted.

1/12/09: Entangled humpback whale reported between Molokini and Maui

Humpback whale observed by local dive vessel trailing more than 100 feet of yellow poly line behind it.

Response mounted by Hawaiian Islands Humpback Whale National Marine Sanctuary, but animal not re-located. Assistance provided by Maui Dive Shop, KIRC and Blue Hawaiian Helicopters. Animal has not been re-sighted.

1/13/09: Subadult humpback whale entangled in crab pot gear off Huula, Oahu

Subadult humpback whale (25 - 30 feet) reported entangled in local crab gear (gear not confirmed) by local rod/reel fisherman late in the day (dusk). Line seen wrapped around animal's tailstock. Unknown if other parts of the body are involved. Portion of buoyline along with all floats removed by good-intentioned local fisherman (not reported gear owner). Unfortunately, significant, and potentially lethal, amount of line and pot(s) believed to remain on animal. No line remains at surface.

No response mounted due to time of day. Nature of entanglement (no gear trailing) will make this animal difficult to re-sight and free. There have been no re-sights of this animal to date.

1/19/09: Adult humpback whale entangled off Ship Wreck Beach, Lanai

Adult humpback whale seen by Sunshine Helicopters with light green-colored net trailing approximately 45 feet behind animal. Gear appears to be attached to animal's tailstock. No floats visible.

Response mounted by Hawaiian Islands Humpback Whale National Marine Sanctuary. Considering time of day (15:15) plan was to mount a rapid response, hopefully re-locate, assess, and tag the animal for later disentanglement effort. Unfortunately, the animal was not re-located. This animal has not been re-sighted to date.

2/1/09: Subadult humpback whale entangled off Lahaina, Maui

Subadult humpback seen entangled by Hawaiian Rafting Adventures' (HRA) vessel. Animal appears to have light-colored (white?), small gauge line around right flipper and tailstock before trailing several hundred feet behind. An oval-shaped, orange 2 foot diameter buoy lies along the right side of the animal.

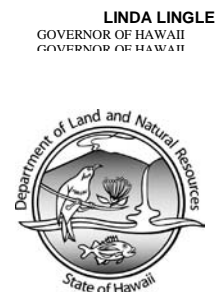
Response mounted by Hawaiian Islands Humpback Whale National Marine Sanctuary, NOAA Fisheries, and US Coast Guard. HRA vessel attempted to standby animal until response team could arrive. Unfortunately, the animal was lost while the team was enroute and not re-located. The team aboard the Sanctuary response vessel searched for several hours and assessed over 20 different humpbacks, but was unable to re-locate the animal. In addition, the United States Coast Guard assisted by providing a CG Auxiliary aerial asset. The aerial asset also searched the area and while many whales were observed (>30), none were entangled.

Location of entanglement reports to date:



Attachment 3

Sanctuary Co-Manager's Report *Jeffrey Walters*



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
DIVISION OF AQUATIC RESOURCES
1151 PUNCHBOWL STREET, ROOM 330
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RUSSELL Y. TSUJI
FIRST DEPUTY

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BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

MEMORANDUM

To: Sanctuary Advisory Council, Hawaiian Islands Humpback Whale National Marine Sanctuary (HIHWNMS)

From: Jeff Walters, Sanctuary Co-Manager, Hawaii Department of Land and Natural Resources (DLNR), Division of Aquatic Resources (DAR)

Subject: HIHWNMS state office update for the period of March 13, 2008 through February 3, 2009 (Prepared for the February 3, 2009, Council meeting).

Resource Protection – Field Work

The state sanctuary program was active in a variety of resource protection field activities, broadly categorized as cetacean stranding response, Hawaiian monk seal protection, and volunteer network development. All of these activities were conducted, as usual, in close coordination with, and under the authorization of NOAA's National Marine Fisheries Service (NMFS), Pacific Island Regional Office (PIRO), Protected Resources Division (PRD).

Cetacean Stranding Response

Sperm Whale Carcass, Kahuku, Oahu, July 2008

State sanctuary staff worked closely with NMFS PIRO, Hawaii Pacific University, and local community members to remove the carcass of an adult sperm whale from a poorly accessible shoreline area near Kahuku on the Island of Oahu. The 11-meter carcass, weighing approximately 10 tons, was fetched up on a coralline tidal ledge against a rocky cliff. Numerous pieces of heavy equipment and significant staff time and effort were required to ensure effective, safe and culturally sensitive carcass removal, and subsequent burial and collection of numerous bones, teeth and tissue samples. This response played out over two weeks and resulted in numerous television news and newspaper stories.

Unidentified Baleen Whale Carcass, Waialua, Oahu, January 2009

State sanctuary staff removed the remains of a large baleen whale from the shore break at Waialua, Oahu. Sharks had been reported feeding on the carcass over the holiday weekend, and staff posted shark warning signs, conducted outreach with nearby shoreline residents, and coordinated with City & County of Honolulu Water Safety Division officials regarding public safety concerns. After finalizing logistics and securing equipment, on Wednesday, January 21, sanctuary staff manually pulled the carcass out of the surf and on to the beach using large meat hooks attached to nylon line. Once out of the surf, staff used

large knives to manually cut the whale remains into pieces weighing approximately 50 lbs each, and placed them into large plastic bags. The City & County of Honolulu Public Works Division provided a front-end loader and dump truck that hauled away the remains and buried it in a nearby landfill. The total weight of remains removed was approximately 1,500 lbs. It was not possible to determine the species of whale, butrorqual pleats were observed on the remains, leading to the tentative determination of some species of baleen whale. This response resulted in at least two television news stories.

Spinner Dolphin Live Strandings, Hawaii Island

Big Island staff and volunteers partnered with, DOCARE, NOAA PIRO and Hawaii Pacific University to respond to, prep and ship two spinner dolphin carcasses to Oahu. In both cases the animal came ashore alive, so staff and volunteers were able to respond and assist with education and outreach on the beach to concerned beach goers, as well as handle and prepare the animal for shipment to Oahu once the animal expired.

Spinner Dolphin, Anahola, Kauai, January 2009

The state monk seal response coordinator responded to a NOAA stranding network call of a stranded Spinner Dolphin up the Anahola River. Two trained volunteers acted as primary responders to confirm the stranding and act accordingly to keep public safe. The coordinator collected stranding supplies, volunteers and two other veterinarians to assist. The team arrived in the dark, to find DOCARE officers, and surfers who had initially found the dolphin steadying it on the sand bar as the tide was rising. Volunteers assisted to get the dolphin onto a stretcher to remove from the river and free surfers from being in the cold water. The dolphin was weak and struggled mildly while it was assessed. Sedative was administered, public thanked for their participation and the dolphin was moved to a quiet secure location to euthanize and collect samples. The dolphin was put on ice and stored overnight at the DLNR base yard. Drs. Kristi West (HPU) and Wendy McIlroy assisted with the necropsy the following day. Select students and volunteers also participated and were educated. The samples and skeleton were sent with Dr. West to HPU, while the remainder of the carcass was disposed of at the Kauai Humane Society. A follow up conference call was done with David Schofield, Greg Levine (consulting veterinarian) and other island coordinators for education and tech transfer.

Orca, Poipu, Kauai, October 2008

Received call at 11pm of live Orca stranded off Brennekes. An incident command structure was set up and a response mounted with animal cordoned off from the public. The stranding team arrived early Oct. 23, with the whale being observed, blessed by native Hawaiian practitioners, sedated and euthanized. The carcass was collected, transported to site for necropsy and disposal. Acknowledgments and mahalos were sent to various participants in the response. Debrief conference calls were held regarding the stranding with various participants.

Humpback Calf False Alarm, Polihale, Kauai

The Kauai monk seal coordinator responded to report of dead whale at Polihale. Investigation revealed a humpback calf had been resting in shallow water near surf spot at Queen's Pond. Bystanders said mother and calf left late afternoon and appeared normal.

Stranded dolphin carcass, Polihale, Kauai

The Kauai monk seal coordinator responded to a report by DOCARE at Polihale State Park. She mounted response, but was unable to retrieve the carcass due to road flooding. In coordination with DoCARE and Interisland Air Helicopters the carcass was delivered for pickup, packaged and sent to HPU for necropsy.

Hawaiian Monk Seal Protection Field Work

Routine Haul-Out Response - Kauai

Kauai's monk seal activity continued to increase as more seals were born and moved between the islands of Ni'ihau and O'ahu. A total of approximately 1,280 seal responses were conducted on Kauai during 2008. Responses varied daily from calls received on the hotline to routine monitoring of certain locations and looking for specific seals. Multiple, daily "routine haul-outs" required the coordinator and volunteers to respond at various locations, often simultaneously, around the island. Responses typically involve

placement of a “seal protection zone” around the seal to keep the public safe and seal protected from disturbance or injury, especially at popular tourist locations.

Although volunteers continued to play an invaluable role, the Kauai monk seal response coordinator (Mimi Olry, DVM) and/or half-time NMFS contractor assistant (Wendy McIlroy, DVM) were called on almost daily to check remote locations that required more expertise or special permission. With the increased advertising of remote beach locations, the need to cover these locations has increased this year. Assistance from resort personnel, Kauai County Ocean Safety officers, DLNR DoCARE officers, and community members has aided in more rapid responses.

At each haul-out, scientific data are collected, the barrier is moved as needed, often over a 12-hour period, and public education and outreach occurs. In unusual circumstances, the coordinator and/or contractor was required to notify NMFS PIRO and DLNR of a potential “take” when seals needed to be captured or “displaced” from an unsafe location (e.g., on or close to a street, or boat ramp). On-scene outreach is always conducted in these cases to explain that “take” is only allowed under federal permit holder’s authority.

Routine Haul-Out Response – Hawaii Island

The Hawaii Island marine mammal response network, coordinated on-island by the Hawaii Island sanctuary programs coordinator (Justin Viezbicke), responded to over 100 seal haul outs all around the Big Island over the past year. At each of these haul out areas, staff and volunteers would spend time educating residents and visitors about the Hawaiian Monk seal and worked with these communities to help to protect and monitor this rare resource. Response work on the Big Island was greatly facilitated during this reporting period by the growing Hilo-based response group organized by UH Hilo professor, Dr. Jason Baker.

Seal Pup Events – Kauai

This year, there were an increased number of pregnant seals, especially females not usually sighted as “resident” to Kaua’i. During the April Seal Count, the seal coordinator joined the NMFS Pacific Islands Fisheries Science Center (PIFSC) to do an aerial count of seals on Ni’ihau and Kaua’i. Three pup events required extensive management coordination by the Kauai monk seal coordinator, and several other pregnant females and an abandoned pup required further work. One seal thought for several years to pup on Ni’ihau was confirmed on Kaua’i with a new pup. Also, another mother/pup pair was found on a remote Kaua’i beach, which could then be monitored and later tagged by the coordinator.

With three known pregnant females that frequent the busy Poipu shore, it required training and scheduling volunteers in anticipation throughout the summer months. One female (RK34) that had abandoned her pup last year, did the same again, requiring a quick response coordinated with NMFS PIRO and PIFSC to retrieve the pup before it was injured. The pup was the first monk seal neonate to be hand reared successfully (by NMFS on Oahu), providing important information and solutions in case this happens again. This year a female thought earlier to have lost her pup, had a sixth pup in six consecutive years. The pup, born November 8, was the latest-in-year birth on record, requiring much supervision to keep it protected on a popular semi-remote beach through the busy Thanksgiving and Christmas holidays through inclement winter weather. This birth, of another female pup, suggested that in the Main Hawaiian Islands, the females may be more productive, and may reproduce more often, earlier in life and all year round.

Seal Pup Events – Hawaii Island

The Hawaii Island programs coordinator and volunteers partnered with UH Hilo and the DLNR Department of Forestry and Wildlife (DOFAW) under NMFS PIRO oversight to help monitor a mom/pup pair in Waimanu valley, a very remote valley with limited access. This partnership resulted in staff and volunteers working together over a 6-week period to monitor the location and health status of the mom and pup in the valley during the very critical nursing period. After mom weaned the pup, the team again worked together to tag and measure pup for information and monitoring purposes.

Seal Pup Events – Oahu

The state operations coordinator provided vessel operations and support during relocation of 2 weaned monk seal pups to Rabbit Island. The pups, born on popular Oahu beaches, were relocated to Rabbit Island to give them a chance to mature away from humans and in the presence of adult seals.

Injured, Hooked and Entangled Seals – Kauai

A total of seven seals injured by fishing hooks were responded to this year. Intervention to remove hooks was done on four seals. One of these seals had ingested the hook, requiring an involved response coordinated by NMFS PIRO to capture, tag and transport her to and from O'ahu for special veterinary intervention. Three of the hooks were superficial and the seals freed themselves. The incidence of reports and actual hookings increased remarkably this year, particularly at the location, "Big Flats," where ulua fishermen observe seals frequently taking their live bait. One juvenile seal entangled in net debris was responded to, but freed itself.

Special Needs Seals – Kauai

Two of Kauai's oldest known males, TT40 and RK03, did not recover well after their molts, with increased loss of body condition, visible weakness and remained hauled out in one location for abnormal, extended periods. RK03 continued to lose weight, and was finally found dead, unfortunately in advanced decomposition.

Among several reports of troublesome behavior of interacting with humans, RI19, a four-year-old male, continues to be most often identified. He has been observed to follow divers, particularly at night, taking fish attracted by dive lights and stealing them from stringers.

Special Needs Seals – Hawaii Island

In the first half of the year staff and volunteers dealt with R042, a juvenile female that is a seal of concern due to bad habits that she developed as a result of her interactions with people, including being fed fish by spear fishers. This seal was a considerable challenge as her range was large and her interactions with people were occurring on a daily basis, which meant staff and volunteers did their best to respond just about everyday when possible to help prevent any further habituation to humans and to help protect not only her, but the people who may be encountering her in the water, on their kayaks, boats or on the beach. Overall, the monitoring and outreach effort was successful, but unfortunately because of remoteness and the need for daily monitoring, all interactions could not be prevented. After being moved three times to various remote locations around Hawaii Island, R042 was moved off island in August in hopes she would be away from people and re-learn how to be a wild seal. Unfortunately, R042 continued to interact with ocean users at her new relocation area near Lanai and NMFS is currently working on another relocation effort with DLNR and state sanctuary staff support.

Enforcement-Related Monk Seal Protection Activities - Kauai

Problems continued with unleashed dogs on Kauai beaches. This year it culminated in a weaned pup being bitten, in spite of increased vigilance of volunteers and coordinator, repeat requests to particular owners to leash their dogs, and more DOCARE coverage. More collaboration with DOCARE and Humane Society promises to decrease unleashed dogs and illegal driving on the beaches, especially as laws on Kaua'i are implemented and enforced, with increased public demand.

Volunteer Response Network Development

Volunteer Response Network Development – Kauai

Over the last 4 years, approximately 300 volunteers have been recruited to assist with several "jobs" that they have been enrolled and trained to do. Many of the volunteers are part-time residents, or month long visitors, as well as 60 active resident volunteers that participate, when available, with daily seal haul-outs. The network was refined this year by the development of "primary volunteers," who serve as leaders within the volunteer community. The plan, though not complete, is that these committed volunteers assist in their section of the island to manage volunteers on their particular phone tree. The hope is that this system will keep more volunteers engaged and improve communication and training, as well as speed up response time and bridge with their local communities. Instructions, Power Point presentations and handouts developed to train volunteers were submitted to NMFS PIRO to help make a draft volunteer manual and to aid new coordinators on the other islands this year.

Volunteer Response Network Development – Hawaii Island

Over the past year the Big Island volunteer group has grown to a core group of about 25 people on the west side of the island, while the east side of the island also continues to grow with our UH Hilo

partnership helping to staff east Hawaii needs. The group has had monthly meetings all year and have worked with Hawaii Pacific University to do marine mammal stranding protocols trainings in addition to a wide variety of volunteer opportunities that include monk seal haul outs and response, marine themed classroom education, community outreach programs and activities, marine mammal response, research and large whale disentanglement and rescue.

Resource Protection – Policy

The state sanctuary program continued to represent DLNR on all policy analysis and development related to protecting Hawaii's marine mammals and sea turtles. In this capacity, the state sanctuary office drafted more than a dozen letters for the Governor's signature expressing the state's position on various aspects of marine protected species policy. Several other important activities and events related to resource protection are described below.

Statewide Large-Capacity Inter-Island Ferry

The state DOT released the DEIS for the Hawaii Inter-Island Large Capacity Ferry in late December 2008. The 45-day comment period closes on February 23, 2009. The state sanctuary office is currently reviewing the DEIS and is expected to submit comments to DOT via the DLNR Chairperson's Office. The Hawaii Inter-Island Large Capacity Ferry Oversight Task Force (OTF) issued its final report to the Legislature on December 29, 2008. The report reflected the recommendations of the rapid risk assessment prepared by Belt Collins, the contractor hired by DOT to conduct the assessment. Dr. Joe Mobley and Marine Mammal Research Consultants (MMRC) were sub-contracted to conduct the assessment related to marine mammals, including an analysis of the potential secondary impact and mitigation associated with the statewide harbor improvements. The OTF final report recommendations relevant to humpback whales included:

- Conduct a study to determine the validity of the Hawaii Superferry whale avoidance policy, with the study to be structured by a credentialed person, include at least four voyages during the evening (after dusk), be conducted during February, focus on the personnel used to serve as whale observers, and be funded by a source determined by the Legislature
- Conduct a fly over study of the marine mammals in the Hawaiian Islands in 2009 with the study (estimated to cost \$200K) to be funded by the Legislature.
- Have the large capacity ferry provide scatter logs of whale sightings from November through May for each year, with the information to be provided to DLNR and other appropriate government agencies.

More information on the task force and the rapid risk assessment can be obtained at the following web site: <http://hawaii.gov/dot/harbors>

DLNR Incidental Take License

State sanctuary staff spent a significant of time over the reporting period working with the DLNR Division of Forestry and Wildlife (DOFAW) in clarifying the role of the state program and DAR in DOFAW's incidental take license (ITL) program. Under HRS 195D and HAR 13-124, the state is given the authority and responsibility to authorize the incidental take of endangered and threatened species resulting from human activities such as construction, development, etc. Much like the incidental take regime stipulated in Section 10 of the federal ESA administered by NMFS, the state ITL can only be issued to applicants who develop and implement a conservation plan that ensures that all take occurs at levels below that which would affect the recovery of the species subject to incidental take. Although some of the details have yet to be finalized, the general agreement reached between DOFAW and DAR sanctuary program is that DOFAW will lead the ITL review process regarding marine protected species (e.g., Hawaiian monk seals, sea turtles, humpback whales, etc.) for activities that occur above the high water line and the DAR sanctuary program will lead all ITL reviews for activities that occur below the high water line (i.e., in the marine water column). By statute, the ITL review process excludes activities that involve the use of state submerged lands.

Aquaculture – Nearshore Fish Farms

State sanctuary staff spent a significant amount of time communicating with Kona Blue Water Farms (KBWF), NMFS PIRO and the DLNR Office of Coastal and Conservation Lands (OCCL) regarding numerous bottlenose dolphins that have apparently taken up “residence” at the fish farm facility, feeding on escaped fish stock (kahala) and wild fish attracted to the structure. State and NMFS staff also conducted snorkel surveys of the farm to directly observe the dolphins of concern. The dolphins are exhibiting various behaviors, such following divers and pulling at cage structures, that raise concerns for human safety and the long-term health of the dolphins. Various mitigation measures have been developed and implemented by KBWF with only a moderate amount of success to date.

Representatives of KBWF also discussed with state sanctuary staff plans to change the configuration of their facility from all submerged cages to all surface pens. These have only been preliminary discussions. The state office has not taken a position regarding the proposal, will await more detailed plans and expects to channel any comments, recommendations, etc., through OCCL’s conservation district use permitting (CDUP) process, as is standard procedure for any fish farm proposed in state waters.

The co-manager and state operations coordinator joined the sanctuary superintendent in a meeting at DLNR on November 19 with Dr. Jim McVey, of Indigo Seafood, regarding the company’s plan to install a fish farm (submerged moi cages) off the North Kohala coast, near Kawaihae Harbor, Hawaii Island. The co-manager and superintendent expressed the now well-documented set of concerns regarding large structures such as fish farms being placed in sanctuary waters. The co-manager and superintendent also communicated their previously stated desire that fish farms be located outside of sanctuary waters, at least until possible impacts on humpback whales and their habitat can be better understood. They also explained the role of the state and federal sanctuary programs in the various state and federal regulatory actions typically required for the installation of such fish farms in Hawaii.

Hawaiian Monk Seal Protection Policy

In addition to administering the incidental take permit (ITP) program designed to protect seals from nearshore fishery interactions (discussed below), the state sanctuary office was active as the state’s lead within DLNR analyzing, developing and communicating state monk seal protection policy. The state co-manager serves as a member of the NMFS Hawaiian monk seal recovery team, representing the state of Hawaii. In this capacity, the co-manager attended to the recovery team’s annual meeting in Honolulu, December 2 – 4, where several recovery plan implementation recommendations were developed by the team. Various state staff attended the annual Hawaii Conservation Alliance Conference in Honolulu in July and the co-manager sat on a discussion panel session with various NMFS and non-government representatives discussing the current status and challenges facing monk seal protection in the Main Hawaiian Islands (MHI). State sanctuary staff also attended a two-day conference on monk seal conservation in MHI the sponsored by the non-profit, Marine Conservation Biology Institute (MCBI) in Honolulu on April 29 and 30. The state co-manager gave a presentation at this conference on the ITP program and the sanctuary’s management plan review (MPR) process with regard to the possibility of adding monk seals to the sanctuary’s umbrella of protection. All state sanctuary staff also attended and gave presentations at the annual conference of the Hawaii Marine Mammal Response Network sponsored by NMFS PIRO.

The Kauai monk seal coordinator collaborated with Kaua’i Humane Society and DOCARE officers to improve enforcement of leash laws that had been ignored in the past, creating problems for the seals and volunteers taking care of them. Also, the coordinator met with the County Council, various state and county agencies, and the Kaua’i Visitor’s Bureau, to confer the endangered status of the monk seals on Kaua’i, and conservation needs of this species and its marine environment.

Hawaii State Legislature – Monk Seals have a Good Session

The state sanctuary office took the lead in drafting supporting DLNR testimony for the following bills:

Bill No.	Description	Status
SB 3169	Creates two DLNR positions to support Hawaiian monk seal conservation	died in committee
HB 2626	Designates Hawaiian monk seal as state mammal	crossed over, passed in conference, signed into law - Act 72

SB 2464	Designates Hawaiian monk seal as state mammal (HB 2626 companion)	crossed over, passed in conference, signed into law - Act 72
HB 2625	Designates April 19 as state Hawaiian monk seal day	deferred, died in committee
SB 2465	Designates third Saturday in April as state Hawaiian monk seal day	crossed over, died in committee

Act 72 (SB 2462 and HB 2626 after passing through conference), which designated the Hawaiian monk seal as the official marine mammal of the State of Hawaii was signed into law by Lt. Governor, James “Duke” Aiona, on May 18, 2008. This new law was the result of a lot of work by Oahu-based monk seal response volunteers and other non-government folks who care for our monk seals. There was some testimony expressing concern that some public confusion might result since the humpback whale is already designated as Hawaii’s official state mammal, but DLNR and the state sanctuary program attended all hearings and submitted numerous versions of supporting testimony with assurances that both the Hawaiian monk seal (state marine mammal) and humpback whale (state mammal) deserve special recognition. With the proper education and outreach, these two official designations can help create public awareness and support synergy for Hawaii’s marine wildlife conservation issues.

Spinner Dolphin Protection Policy

The state sanctuary office continued to serve as the state’s lead agency in cooperating with the NMFS to enact a new federal rule to protect spinner dolphins in specified resting areas around the state. The state operations coordinator represented DLNR in the NOAA sponsored dolphin SMART introductory meeting in Waianae December 3, 2008. The Dolphin SMART program ultimately promotes voluntary compliance among commercial operators by using best practices and adhering to legal requirements and guidelines. The purpose of the meeting was to introduce the Dolphin SMART program to Hawaii commercial tour operators and to solicit input from these operators on the program and potential for implementation. The community’s response was largely favorable.

Science and Research

Hawaiian Monk Seal Population Assessment – Kauai

To collect scientific data about the individual seals observed and cared for on Kaua’i, volunteers assisted the seal coordinator and contractor to record and photograph seals daily, watching particularly for any abnormalities, injuries, or changes (including collecting scat, spew and molt). These data were compiled and provided to the NMFS PIFSC for use in the PISFC MHI monk seal population assessment project. Volunteers worked with the coordinator to aid NOAA biologists and researchers to track, capture, and transport seals for research or injury responses. Logistics for these activities were often “on the spot” proving good training, organization and coordination of equipment, volunteers and with partner agencies and community members. Two pups were tagged at remote locations, one captured because of abandonment, and one born on a popular semi-remote location still requires monitoring and protection since November.

2008-09 Hawaii State (DLNR) Humpback Whale Research Permits

State Permit No.	Principal Investigator	Co-Investigator	Affiliation	NOAA Fisheries Permit No.
SH2009-01	Ann Zoidis, M.S.	Andy Day, Tom Norris	CETOS Research Collective	1039-1699
SH2009-02	Adam Pack, Ph.D.	Lou Herman, Andrea Bendlin, Elia Herman, Aliza Milette, Jamie Gibbon, Joel Barkin	The Dolphin Institute	707-1531
SH2009-03	Dan R. Salden, Ph.D.	Phillip Colla, David Glickman, Jeff Kalbach, Jill Mickelson, Doug Perrine, Linda Silvers, Harrison Stubbs, Beck Straussner	Hawaii Whale Research Foundation	587-1767
SH2009-04	Jim Darling	Karen Miller, Meagan Jones, Charles Nicklin, Elizabeth Mathews	West Coast Whale Research Foundation	753-1599
SH2009-05	David Mattila	Edward Lyman	Hawaiian Islands Humpback Whale NMS	774-1714

State Humpback Whale Research Permits

The state sanctuary office continued to be responsible for issuing and administering state humpback whale research permits under DLNR's state statutory authority. For the 2008-2009 humpback season, a total of eleven permits have been issued thus far. Detailed descriptions of the research activities authorized under these permits is provided by state operations coordinator, David Nichols, via a separate memo prepared for the SAC. A table listing basic permit information is provided above.

SH2009-06	Christine Gabriele	Susan Yin, Suzanne Rickards, Adam Frankel	Hawaii Marine Mammal Consortium	1127-1921
SH2009-07	Deborah A. Glockner-Ferrari	Mark J. Ferrari	Center for Whale Studies	393-1772
SH2009-08	Rachel Cartwright, Ph.D.	Terence Mangold, Amy Venema	California State University, CI	10018
SH2009-09	Whitlow Au, Ph.D.	[Alison Stimpert]	Hawaii Institute of Marine Biology	1000-1617
SH2009-10	Robin Baird	Daniel Webster, Gregory Schorr	Cascadia Research Collective	731-1774
SH2009-11	Jason P. Turner, Ph.D.		University of Hawaii Hilo	731-1744

Education and Outreach

State sanctuary staff continued to be active in education and outreach during the reporting period. Efforts in this area ranged from conducting boater workshops to reduce vessel-whale interactions to developing signage to reduce monk seal disturbance and promote public safety. Education and outreach highlights include:

Ocean Etiquette Program

A statewide outreach campaign, often referred to as the “Ocean Etiquette Campaign” or “Boater Outreach,” is again underway this year, targeting ocean users with key messages regarding vessel-whale collision avoidance and voluntary compliance with the 100-yard humpback whale approach rule and other conservation messages. Thus far, the campaign has entailed six boater workshops statewide, targeted mailings of outreach materials, harbor signage, and extensive news media coverage. The co-manager also gave presentations with ocean etiquette messages to the staff and crew of “The Boat” commuter ferry on Oahu in December and to various maritime industry and agency personnel at the regular meeting of the Hawaii Ocean Safety Team (HOST) in October. The co-manager also gave a season wrap-up on vessel-whale interactions for the previous 2007-2208 season at the HOST meeting in April.

Hawaii Island Education and Outreach Activities

The Hawaii Island programs coordinator oversaw the following activities during the reporting period:

Hawaii Island School Based Activities

The Hawaii Island sanctuary programs coordinator conducted a variety of school-based activities in 2008 in more than 10 schools on the Big Island. These activities entailed working with teachers and students in the field and in the classroom, providing information on marine mammals and marine ecosystem conservation. In addition to basic life history and ecosystem-based info, a lot of messaging was targeted on the endangered and protected species of Hawaii with most of the focus on humpback whales and Hawaiian monk seals. The Hawaii Island coordinator and volunteers worked with the following schools and classes this year: Kealakehe 4th grade, Kahakai 4th grade, Konawaena 4th and 5th grades, Hookena 4th grade, Kailua Kona Homeschool, Holualoa 4th and 5th grades, Kealakehe 7th grade, Hawaii Preparatory Academy (HPA) 5th and 7th grades, West Hawaii Explorations Academy 5th and 7th grades, Parker School 5th and 7th grades, Girl Scouts of America and Boy Scouts of America. One highlight of this year's work with schools included partnering with PIFSC to help introduce monk seal curriculum into the 4th grade of Hawaii's schools. We worked with PIFSC to pilot the program in a few Big Island Schools to get feedback from teachers and students on what they learned from the presentation. We also were able to continue to expand our whale-watching program by training the students in the classroom how to look for whales and what to watch for then taking them to the ocean to do a whale watch either from a vessel or the shoreline. Overall our school-based outreach was a success for 2008 but is somewhat limited to how much can be done with limited staff numbers on the Big Island.

Hawaii Island General Public Oriented Activities

Hawaii Island Staff and volunteers participated in a variety of community-based outreach opportunities including Earth Day/Coral Reef Awareness Day activities at Kahaluu Beach Park, National Park cultural

programs at both Pu'u Honua O' Honaunau and Kaloko-Honokohau National Historical Parks, Sanctuary Ocean Count, canoe clubs and community meetings/events throughout the island. In addition to attending these meeting, the Big Island coordinators worked with local television and radio groups to get information on protected species on the television and radio. This included making a whale disentanglement PSA which plays daily on Big Island TV, working with KBIG FM to do the local issues with Sherrie Bracken where monk seals and humpback whales were discussed, and a live broadcast with KBIG FM to share info on whale season.

Hawaii Island Ocean User Oriented Activities

In addition to community talks/presentations staff and volunteers have spent over 40 hours over the past year during whale season sharing info with whale watch companies as they are entering/exiting the waters at the local harbors including Keauhou, Honokohau, Puako and Kawaihae harbors. Signage was placed at all harbors to help educate and alert boaters to the whales' presence from Dec.-April. The Hawaii Island coordinator also coordinated the yearly boater workshop mentioned above where boat operators attended to learn about how to safely boat around humpback whales during the busy whale season. Big Island staff was able to establish an email network to communicate information to local ocean users to keep them up to date on latest situation with monk seals and humpback whales. This email group has turned out to be very valuable resource as local ocean users are on the water a lot and are able to assist in many situations.

Marine Protected Species Signage

The state operations coordinator, David Nichols, developed several signs that were deployed around the state with funding from NMFS PIRO to help educate beach goers, fishers and other stakeholders about responsible behavior around marine mammals and sea turtles. Examples of these signs are shown below:

HAWAIIAN MONK SEALS

PLEASE DO NOT DISTURB

The Hawaiian monk seal is an endangered species protected under Federal and State Law (16 USC 1538 and HAR 13-124).



IT IS ILLEGAL TO:

- Feed
- Approach
- Touch
- Injure
- Harm
- Kill
- Harass

Seals often rest on shore. Please avoid disturbing seals by giving them plenty of space, not making loud noises, and keeping all pets on a leash. If a seal is sighted or you observe someone harassing or approaching a seal, please report it immediately:

Monk Seal Sighting Line: (808) 220-7802
NOAA's toll free / 24-hour hotline: 888-256-9840

It takes all of us to help protect these precious natural resources.

MAHALO FOR YOUR KOKUA



HAWAIIAN MONK SEALS

PLEASE DO NOT DISTURB

The Hawaiian monk seal is an endangered species protected under Federal and State Law (16 USC 1538 and HAR 13-124).



This shoreline is important monk seal resting habitat.

Please stay far away from all seals, keep dogs on leash, do not attempt to feed, and refrain from loud noise or sudden movement.

Please report suspected seal injury or disturbance - 651-7668 (local call).
If no response after 15 minutes, please call:

NOAA's toll free / 24-hour hotline: 888-256-9840

 **MAHALO FOR YOUR KOKUA** 

SPINNER DOLPHIN

RESTING AREA

Hawaiian spinner dolphins are protected under the Marine Mammal Protection Act.

Spinner dolphins spend their daylight hours in coastal waters, generally in calm bays. They use these areas to rest, care for their young and to avoid predators, before traveling to deeper water at night to hunt for food.



PLEASE DO NOT SWIM WITH DOLPHINS.

Scientific research has shown that dolphin behavior is negatively affected by human disturbances such as swimming with or other interactions.

PLEASE report sightings of injured or entangled marine mammals to
NOAA's toll-free 24-hour Hotline - (888) 256-9840.

Show Dolphins Aloha.
Let them rest without disturbance.

HAWAIIAN GREEN SEA TURTLE

HONU

ENJOY FROM A DISTANCE

The honu is protected under both federal and state laws.



PLEASE never feed the turtles.
Feeding the turtles – even their natural diet of green algae – will cause the turtles to become used to human presence and change their natural behavior. Turtles that learn to associate humans with food may bite.



PLEASE never touch or handle sea turtles.
Sea turtles are wild animals. Please respect and enjoy them from a distance.



PLEASE use extreme caution when fishing.
Entanglement in fishing line is a hazard to sea turtles. Please help protect them by fishing responsibly.

ALWAYS report sightings of injured or entangled turtles - (808) 983-5730.

Show Turtles Aloha.

Hiialakai Education Cruise – American Samoa

In February 2008, the state operations coordinator participated in the Education Cruise aboard the NOAA Ship Hiialakai. The Fagatele Bay National Marine Sanctuary in partnership with the sanctuary hosted a five-day student education cruise aboard the NOAA Ship Hiialakai. Approximately 75 students and teachers throughout American Samoa took part in this hands-on marine science experience. Students took part in educational sessions on plankton, benthic invertebrates, oceanography, global positioning systems and multibeam mapping.

Monk Seal Education and Outreach on Kauai

Over the reporting period, the Kauai monk seal coordinator submitted and edited several outreach and education materials for DAR and NOAA programs, to be used state-wide by other coordinators and staff. Brochures, interviews, articles, press releases and newsletters were supported to help visitors and residents improve their understanding of monk seal conservation needs and efforts. Several events were attended with poster presentations and activities to enhance learning about endangered monk seals, for school children and adults. As a guest speaker, Power Point presentations were delivered to various public groups (60-100 attending) around the island to enhance understanding about monk seals, and to encourage public action and to recruit new volunteers (usually 10-15). This year, volunteers developed and delivered a presentation weekly at the Marriott Waiohai Resort to educate visitors about the seals often seen on nearby Poipu beach. Conservation efforts have become more widely known around Kaua'i, with a growing number of organizations involved. The culmination of local efforts has been the Kaua'i Conservation Conference. Here conservationists and agencies can meet, collaborate and inform and activate the public. The semi-annual Monk Seal Count coordinated by NMFS PIRO also increased public awareness and participation in monk seal conservation as volunteers and the public are employed to look for and count seals outside of the regular, daily hotline call-responses.

Humpback Whale Awareness Month

Governor Linda Lingle and Lt. Governor James Aiona issued an official proclamation designating February 2009 as Humpback Whale Awareness Month in Hawaii. Oahu programs coordinator, Christine Brammer (with the federal side of the sanctuary partnership), spearheaded this effort. The proclamation highlighted the humpback whale awareness month education and stewardship activities coordinated by the sanctuary across the state.

Sanctuary Newsletter Magazine

Oahu programs coordinator, Christine Brammer, also did the heavy lifting to develop and produce an important new education and outreach tool – *Koholā Connection* – the sanctuary's new newsletter, a full-color, multi-page magazine format document. The state's sanctuary operations coordinator, David Nichols, assisted the effort by managing the procurement of the newsletter's design and printing services.

ESA Section 10 Incidental Take Permit Program

The state office of the sanctuary administers DLNR's ITP program, which is responsible for reducing recreational fishery-related interactions with Hawaiian monk seals and sea turtles. The long-term goal of the program is for DLNR to obtain an ESA Section 10 incidental take permit (ITP) from NMFS for the incidental take of seals and turtles in nearshore recreational fisheries managed by the state of Hawaii, e.g., shorecasting, lay gill netting, etc. Short and mid-term goals include developing and testing outreach, monitoring and reporting methods, and drafting a conservation plan required for the permit application. Direct costs for the program for 2008 were covered by NMFS via an ESA Section 6 grant to DLNR and state general funds appropriated by the Hawaii Legislature. The sanctuary co-manager and other NOS-funded state program staff provide administrative and other support for the ITP program.

Earl Miyamoto, the ITP program coordinator reported aboard on April 1, 2008. He was immediately involved in taking intervention actions with fishermen who were fishing illegally and posing a threat to both the seals and Hawaiian green sea turtles. He has continued to engage with the various stakeholders utilizing education, outreach and intervention measures in forwarding the program goals and objectives. Earl also provided assistance to three (3) simultaneous Hawaiian monk seal pupping events on Oahu and Kauai.

The ITP coordinator responded to approximately 20 calls regarding fishermen and the general public, which appeared to be possible violations of rules/regulations or posed potential risk of harm to the seals/turtles in the vicinity of the activity. Ten of these incidents were intercepts of fishermen utilizing illegal nets. The nets were removed from the water either by the fishermen or by DOCARE officers. The other incidents involved the general public and were handled by enforcement officials with the coordinator conducting outreach/education in consonance with the officer. The ITP coordinator also was involved in two other investigations with federal law enforcement (NOAA OLE) officers. The first incident was a monk seal pup being hooked by a fisherman and a sea turtle killed on the beach for consumption.

The ITP coordinator conducted education and outreach to fishermen by attending eight fishing tournaments. A booth was setup at each tournament advocating the use of barbless circle hooks and provided free literature and sample hooks the fishermen. He also routinely (weekly) visited the shoreline where there is a concentration of either seals or turtles to speak with fishermen. These visits occurred primarily on Friday and Saturday evenings/nights when the area is heavily fished. He also reached out to other stakeholders by attending/presenting at monk seal volunteer training sessions; attending/presenting to the Board of Directors of Malama na Honu the turtle volunteer NGO; regular weekly visits to the volunteers on the beaches. He has reached out to the Hawaiian community by consulting with the indigenous coordinator for the Bishop Museum and Mr. Patrick Ching a local artist/author deeply involved with the local Hawaiian community and advocate of endangered species in Hawaii, specifically the monk seal and green sea turtle.

Partnerships have been established with the NMFS PIRO and PIFSC to provide data to write the ITP Habitat Conservation Plan. Additionally, contacts have been established with other States who are dealing with similar issues (Florida, North Carolina and Virginia).

The ITP coordinator attended the following meetings/conferences/workshops to gain further knowledge on the issues:

- Marine Mammal Stranding Team workshop/training
- MCBI Monk Seal Workshop
- Monk Seal Recovery Team Workshop
- NMFS Turtle Bycatch Conference (Washington D.C.)
- NMFS Species of Concern/Section 6 Grants Conference (Washington D.C.)
- Observed necropsy on a spinner dolphin

The ITP program administrative coordinator, Lisa White, came on board at the end of October. Lisa immediately delved into several outreach activities with fishers, sea turtles, and seals. Her first event was attending an ATLAPAC fishing tournament to greet recreational fishers and get acquainted with NOAA's barbless hook campaign.

To familiarize herself with Hawaiian green sea turtle conservation efforts, Lisa met with Malama na Honu staff and volunteers at Laniakea and observed the green sea turtles' nocturnal swim up river. She attended the Sea Life Park sea turtle release day celebration. She met with scientists from Pacific Islands Fisheries Science Center (PIFSC) Marine Turtle Research Program and observed necropsies of six previously frozen green sea turtles. She met with NMFS PIRO PRD.

The administrative coordinator also took advantage of the sanctuary's Ocean Awareness Training (OAT) classes on Oahu to get an overview of Hawaii's marine resources and marine conservation programs. She could not fully complete the certification, however, because she traveled to Kauai to assist with the Hawaiian monk seal pup monitoring program. Over the course of three different visits to help protect the mom and late-in-the-season pup, the ITP admin coordinator interacted with volunteers, covered openings in the pup sitting schedule, and acted as monk seal Hotline Response Coordinator for the island while the Kauai monk seal coordinator, Mimi Olry, attended the monk seal recovery team meetings. The administrative coordinator also met with volunteer DB Dunlap and the HURL pilots at Makai to learn about monk seal presence in Oahu on Rabbit Island.

The ITP administrative coordinator will continue to develop the state-federal partnership by working with NOAA employees to gather information to develop the Habitat Conservation Plan for the ITP application. Her efforts in the field with the fishing community will also increase as the ITP Program works to implement a community-centered conservation approach to mitigating nearshore fisheries interactions with sea turtles and seals. To understand enforcement issues, Lisa has met with DOCARE, OLE, and USCG officers and will continue to work with them on the monitoring and enforcement aspects of the ITP conservation plan.

Vessel Support

The state sanctuary program at DLNR continued to provide berthing and storage and other support services for the NOAA vessels SeaCat, Hiimanu and ManaCat. The state operations coordinator also provided a variety of support services for sanctuary vessels over the reporting period, including procurement of repair services, and procurement and shipping of engines and equipment. The state ops coordinator also assisted with cruise, evaluation and pre-season preparation of the research vessel, Hiimanu prior to transit to Maui.

Program Management and Administration

Program Funding

The federal services contract between NOS and DLNR was extended for another year (June 2008 – May 2009), with one more extension option year left on the current contract. This contract provides funds for personnel costs for three positions (co-manager, state operations coordinator and Hawaii Island programs coordinator) and a limited amount of funds for other program costs. The program also successfully applied for and was awarded a grant from NMFS under Section 6 of the ESA. This grant covers costs associated with three personnel (Kauai monk seal coordinator and two ITP staff) and a limited amount of other program costs (see section on ITP above). The ITP staff are also supported by state general funds appropriated in the base budget of DAR as well as additional state general funds appropriated by the Legislature as an “add on” during the 2008 session. It is worth noting that DLNR absorbs all overhead (G&A) costs associated with administering the state sanctuary program. The state also provides significant in-kind contributions to the program in the form of vessel berthing and storage, office space, equipment storage, vehicles, etc.

State Program and Positions Extended by DHRD for Two More Years

A significant amount of effort was devoted this year to ensuring the continued existence of the state sanctuary program and associated positions within the state government administrative and human resource systems. Responding to a mandate from the state Legislature to review all civil service exempt positions and convert or eliminate as many of these positions as appropriate, the state Department of Human Resources Development (DHRD) and the DLNR Personnel Office scrutinized the status of the state sanctuary program and all six of the program’s temporary, exempt positions. The state program is currently designated as a special project of the Governor, which under current state civil service law (HRS 76), allows for the use of temporary, exempt positions. After a significant amount of written communications, emails, meetings and negotiations, DHRD and DLNR Personnel Office agreed that the state program was qualified as a Governor’s special project and the associated positions were worthy of continuing for another two years as of September 2008.

Other Activities

Hawaii’s Ocean Resources Management Plan

The state operation coordinator participated in numerous meeting, workshops and site visits related to the implementation of Hawaii’s Ocean Resource Management Plan – an integrated place-based approach to management of ocean resources based on connecting land and sea, preserving ocean heritage, and improved collaboration and stewardship. DLNR divisions are collaboratively devising strategies to better manage four focus areas throughout the state. These areas include: Haena (Kauai), Kaena Point (Oahu), Ahihikinau (Maui), and Kealahou Bay (Big Island). As a member of the Kaena Point working group, state ops coordinator is currently helping develop an action plan to increase protection and restoration of the area while supporting sustainable, low impact recreational opportunities for the public that retain the ‘natural feel’ of the area and honors its cultural significance.

Sea Turtle Conservation

Working in coordination with DAR aquatic biologist, Don Heacock, who is vested with the care of sea turtles on Kaua’i, the Kauai monk seal coordinator and seal response volunteers assisted to protect turtles that haul-out to rest, like seals, with ropes and signs also stored on the beaches. Turtles foraging in the shallow waters of popular tourist beaches also required volunteer supervision and placement of signs to protect the turtles. Volunteers educated the public as well, about sea turtles, laws protecting them, and

proper behavior around the turtles. When possible, assistance was provided to report and collect dead turtles found around the island. As shown above, the state operations coordinator was also active in developing and deploying signage to reduce human-turtle interactions across the state.

Kaneohe Bay Regional Council

The co-manager served as the interim DAR staff coordinator for the Kaneohe Bay Regional Council for two quarterly meetings during the reporting period after administrative responsibilities for the council were unexpectedly transferred from the DLNR boating division to DAR. DAR leadership made this temporary assignment considering the co-manager's past work history facilitating the council during the late 1990's while he was working with Hawaii's CZM program. Tasks accomplished included working with council members to create meeting agendas, emailing and mailing meeting notifications to council and community members, securing DLNR Chairperson approval of meeting agendas, filing meeting notices with the Lt. Governor's Office, coordinating venue arrangements, attending meetings, etc. DAR has subsequently assigned other DAR staff to assume these duties.

Hawaiian Islands Coral Reef Initiative management committee

The co-manager served on the Hawaiian Islands Coral Reef Initiative (HICRI) management committee representing the State of Hawaii, DLNR. The HICRI management committee serves as the oversight body for funds awarded by NOAA to coral reef research projects. Over the past few years, HICRI has adopted an emphasis on research efforts characterizing coral reef ecology in two demonstration areas: Maunalua Bay, Oahu and Kealahiki Bay, Maui. Part of the co-manager's role on the committee is to evaluate project efforts in terms of relevance and usefulness for management decisions.

UH Hilo Masters Thesis Committee

The co-manager served as a member of the Masters thesis committee for Melissa Netze, a graduate student in zoology at UH Hilo. Melissa's committee Chair is Professor Jason Turner. Melissa and Dr. Turner are also active with the Hilo marine mammal response network and work closely with the sanctuary's Hawaii Island programs coordinator on Hawaiian monk seal and other marine mammal response work. Melissa's research project relates to the nursing behavior of monk seal pups and the possible impacts of human disturbance. Part of the co-manager's role on the committee is to evaluate the projects relevance and usefulness for management decisions.

Meetings, Etc.

(Date – Event description: state staff person involved)

April 2 – Kaneohe Bay Regional Council meeting: co-manager

April 10 – Meeting with superintendent and Dr. Joe Mobley re research projects, proposals, collaboration, etc.: co-manager

April 14 – Sanctuary “all-hands” conference call: all state program staff

April 16 – NMFS PIRO staff in conference call re monk seal conservation issues: o-manager

April 16 – Joint SAC research and conservation committees conference call: co-manager joined

April 24 – Meeting with NMFS PIRO staff re ITP program priorities: co-manager and ITP coordinator

April 24 – Hawaii leadership team in planning meeting: co-manager and Hawaii Island coordinator

April 29 – 30 – NOAA facilities planning workshop: co-manager and Hawaii Island coordinator

May 7 – Hawaii Watchable Wildlife Program steering committee meeting: co-manager

May 7 – Meeting with state DOH regarding water quality standards: state operations coordinator

May 9 – Sanctuary “all hands” meeting on Maui: all state staff

May 9 – Conference with UH Hilo faculty re Mellissa Netze Masters committee thesis research: co-manager

May 13 – Meeting with DLNR chairperson, other DLNR leaders, and NMFS PIRO William Robinson and other NMFS leaders re various inter-agency coordination concerns, including “swim-with-dolphin” activities along the Waianae coast: co-manager

May 21 – SAC executive committee conference call: co-manager

May 27 – Meeting with DLNR Personnel Office staff and DAR administrator re program extension and staff position status: co-manager

May 30 – Conference call re FY 09 AOP planning: co-manager and Hawaii Island coordinator

June 2 – Meeting with DAR administrator and DLNR Personnel Office staff at State DHRD re program extension and staff position extensions: co-manager

June 9 – Conference call with various NMFS staff re monk seal population assessment data collection protocol: co-manager and Kauai monk seal coordinator

June 11 – 12 – Annual conference of the Hawaii Marine Mammal Responders Network held by NMFS PIRO: all 5 state staff

June 12 – SAC meeting: co-manager

June 16 – Meet with superintendent and operations coordinator re various administrative issues: co-manager

June 17 – Conference call with all state staff re program and staff position extensions per meeting with DHRD: all state staff

June 18 – Conference call with sanctuary staff re FY 09 AOP planning: co-manager and Hawaii Island coordinator

June 18 – Joint SAC research and conservation committee conference call: co-manager

June 24 – Meet with Marine Mammal Commission David Laist and DAR administrator re planning high-level monk seal summit: co-manager

June 30 – SAC executive committee conference call: co-manager

July 3 – Meeting with Keiko Bonk (MCBI) and Lt. Governor's staff re additional monk seal funding appropriated by Legislature: co-manager

July 24 – Conducted interviews for ITP admin coordinator position: co-manager and ITP program coordinator

July 30 – Conference call with NOAA contractor and PIRO staff re Kauai monk seal program priorities and needs: co-manager and Kauai seal coordinator

July 31 – Annual Hawaii Conservation Alliance Conference, special forum on monk seal management in the MHI: co-manager and state operations coordinator

July 31 – Education team resources sharing meeting on Maui: Hawaii Island programs coordinator

Aug 1 – Education team planning meeting on Maui: co-manager and Hawaii Island programs coordinator

Aug 11 – 12 – Hawaiian cultural awareness training on Maui: co-manager, state ops coordinator and Hawaii Island programs coordinator

Aug 13 - Education strategy meeting on Maui: co-manager and Hawaii Island programs coordinator

Aug 14 - MPR communications planning and strategy meeting on Maui: co-manager and Hawaii Island programs coordinator

Aug 19 - MPR staff visioning meeting at Sanctuary Hawaii Kai office: co-manager, state ops coordinator and Hawaii Island programs coordinator

Aug 20 - MPR SAC visioning meeting at Sanctuary Hawaii Kai office: co-manager and Hawaii Island programs coordinator

Aug 28 – Meeting at Kehei office with NMFS, county, other sanctuary staff re Maui county agency participation and Hawaiian cultural awareness and protocol during marine mammal stranding response: co-manager

Sept 2 – Ocean etiquette team planning conf call: co-manager, state ops coordinator and Hawaii Island programs coordinator

Sept 2 – SAC conf call re proposed wave energy project off N. Maui coast: co-manager

Sept 5 – DLNR staff meeting re Waianae coast environmental – human uses study: co-manager

Sept 8 – Meeting with OLE special agent, Jeff Pollack, and superintendent re ocean etiquette workshops: co-manager

Sept 9 - Ocean etiquette team planning conf call: co-manager, state ops coordinator and Hawaii Island programs coordinator

Sept 19 – Meeting with superintendent and other staff re Tasmanian web-based project management program: co-manager

Sept 22 – Meeting at NMFS PIRO with various NOAA staff re Australian dolphin-watching impact study: co-manager

Sept 23 - Ocean etiquette team planning conf call: co-manager, state ops coordinator and Hawaii Island programs coordinator

Sept 25 – Joint SAC research and conservation committee conf call: co-manager

Sept 26 – Meeting with superintendent and PIRO staff re monk seal conservation priorities: co-manager
 Oct 2 – SAC executive committee and SAC education committee conf calls co-manager
 Oct 7 – Conf call with PIRO and Kona Blue Water Farms representatives re dolphin interactions: co-manager and Hawaii Island programs coordinator
 Oct 16 – SAC conservation committee conf call: co-manager
 Oct 20 – Meeting with DLNR Chairperson and DAR administrator re monk seal conservation issues and MPR process: co-manager
 Nov 3 – Call with NOAA general counsel for enforcement and litigation, Alexa Cole, re ocean etiquette outreach messages: co-manager
 Nov 5 – 6 – NMFS PIFSC workshop re shark predation on monk seals in the NWHI: state ops coordinator
 Nov 6, 7 – Sanctuary boater workshops, Maui, Maalaea and Lahaina: co-manager
 Nov 12 – Annual pre-season humpback whale incident response coordination meeting with NMFS PIRO and sanctuary staff: co-manager and state ops coordinator
 Nov 12, 13 – Sanctuary boater workshops, Oahu, Hawaii Kai and Kapolei: co-manager
 Nov 19 – Meeting with Jim McVey, Indigo Seafood, and superintendent re proposed fish farm project of Kohala coast: co-manager and state ops coordinator
 Nov 21 – Meeting with ITP staff re program goals and priorities: co-manager, ITP program coordinator and admin coordinator
 Nov 24 – Sanctuary boater workshop, Kailua-Kona: co-manager and Hawaii Island programs coordinator
 Dec 2 – 4 – Hawaiian monk seal recovery team meeting held by NMFS PIRO; co-manager
 Dec 11 – Staff call re vessel use coordination, repair, berthing, etc.: co-manager and state ops coordinator
 Dec 16 – SAC executive committee conf call: co-manager
 Jan 7 – Kaneohe Bay Regional Council meeting: co-manager
 Jan 8 – HCRI management committee meeting: co-manager
 Jan 13 – SAC executive committee conf call: co-manager
 Jan 14 – DAR senior staff meeting re state budget, etc.: co-manager
 Jan 17 – HCRI management committee meeting: co-manager
 Jan 20 – NOAA component small boat operators course: co-manager, state ops coordinator, Hawaii Island programs coordinator
 Jan 22 – Debrief meeting with NMFS PIRO, NOAA OLE and sanctuary staff re alleged collision report response: co-manager
 Jan 29 – Conference call with UH Hilo faculty re Mellissa Netze Masters committee thesis research: co-manager

cc: Laura H. Thielen, DLNR Chairperson
 Ken C. Kawahara, First Deputy, DLNR
 Naomi McIntosh, HIHWNMS Sanctuary Superintendent
 Dan Polhemus, DLNR-DAR Administrator
 Allen Tom, NMSP Pacific Islands Regional Coordinator
 Lisa VanAtta, NMFS PIRO PRD Assistant Regional Administrator

STATE OF HAWAII
Department of Land and Natural Resources
DIVISION OF AQUATIC RESOURCES
1151 PUNCHBOWL ST.
HONOLULU, HI 96813

MEMORANDUM

February 2, 2009

FROM: David Nichols, State Sanctuary Operations Coordinator, Department of Land and Natural Resources (DLNR), Division of Aquatic Resources (DAR)

SUBJECT: State of Hawaii Humpback Whale Research Permits, 2008-09 Season

The State of Hawaii administers annual permits for the take of humpback whales for scientific purposes in addition to the federal five-year permit administered by NOAA National Marine Fisheries Service (NOAA Fisheries). State permits are authorized by state law and are issued in close coordination with NOAA Fisheries to insure applicants meet minimum qualifications and agree to specific conditions for their use.

Attached is a list of the eleven humpback whale research permits issued to this date for the 2008-09 season and includes a brief summary of research objectives.

See next page.

2008-09 Hawaii Humpback Whale Research Permits

State Permit No.	Principal Investigator	Co-Investigator	Affiliation	NOAA Fisheries Permit No.
SH2009-01	Ann Zoidis, M.S.	Andy Day, Tom Norris	CETOS Research Collective	1039-1699
SH2009-02	Adam Pack, Ph.D.	Lou Herman, Andrea Bendlin, Elia Herman, Aliza Milette, Jamie Gibbon, Joel Barkin	The Dolphin Institute	1071-1770
SH2009-03	Dan R. Salden, Ph.D.	Phillip Colla, David Glickman, Jeff Kalbach, Jill Mickelson, Doug Perrine, Linda Silvers, Harrison Stubbs, Beck Straussner	Hawaii Whale Research Foundation	587-1767
SH2009-04	Jim Darling	Karen Miller, Meagan Jones, Charles Nicklin, Elizabeth Mathews	West Coast Whale Research Foundation	753-1599
SH2009-05	David Mattila	Edward Lyman	Hawaiian Islands Humpback Whale NMS	774-1714
SH2009-06	Christine Gabriele	Susan Yin, Suzanne Rickards, Adam Frankel	Hawaii Marine Mammal Consortium	1127-1921
SH2009-07	Deborah A. Glockner-Ferrari	Mark J. Ferrari	Center for Whale Studies	393-1772
SH2009-08	Rachel Cartwright, Ph.D.	Terence Mangold, Amy Venema	California State University, CI	10018
SH2009-09	Whitlow Au, Ph.D.	[Alison Stimpert]	Hawaii Institute of Marine Biology	1000-1617
SH2009-10	Robin Baird	Daniel Webster, Gregory Schorr	Cascadia Research Collective	731-1774
SH2009-11	Jason P. Turner, Ph.D.		University of Hawaii Hilo	731-1744

Attachment 4

Conservation Committee Report

Lou Herman

The Conservation Committee continued to meet jointly with the Research Committee monthly by telephone conference. The Committees took up three primary issues during the period September 1, 2008 to the present. These were:

- a. The downlisting of humpback whales from “threatened” to “least concern” by the International Union for the Conservation of Nature (IUCN). A draft letter addressed to the United States Commissioner to the International Whaling Commission conveyed the concern of SAC that this downlisting not motivate the resumption of whaling for humpbacks in the North Pacific. The letter is to be submitted to the SAC for its comments and approval at its February 3, 2009 meeting.
- b. A draft proposal by Gray’s Reef Inc. for construction of 100 wave energy generators in Penguin Bank, an area of high concentrations of humpback whales during their annual winter visits to the Hawaiian Islands. A document was prepared briefly outlining the project and the conservation issues raised and recommending that the SAC or Sanctuary Management convey these concerns to the Gray’s Reef Project management. This recommendation is to be submitted to the SAC for its comments and approval at its February 3, 2009 meeting.
- c. A document offering alternative responses to the Draft EIS for the Large Capacity Ferry was prepared and circulated to Committee members. The document is to be submitted to the SAC for its comments and recommendations at its February 3, 2009 meeting.

The goals of the conservation Committee for the 2009 year are to continue to be active and proactive where possible on all issues and activities potentially impacting humpback whales in Sanctuary waters in particular, and, more broadly, elsewhere. The Committee will continue to serve as an educational resource for SAC on the biology and behavior of humpback whales and on activities potentially affecting their welfare. The Committee will also consider on an ad hoc basis any issues raised pertaining to the potential inclusion and conservation of other marine species within Sanctuary waters as well as any issues pertaining to Sanctuary boundaries.

The Conservation Committee Report includes draft recommendations on the topics of the following:

- ❖ **Draft Statewide Large-Capacity Ferry Environmental Impact Statement**
- ❖ **Protecting the Penguin Bank Humpback Whale Habitat**
- ❖ Letter to the International Whaling Commission Against Resumption of Humpback Whaling in the North Pacific

Draft Recommendation by the SAC Conservation and Research Committees for Commentary on the Draft Statewide Large-Capacity Ferry Environmental Impact Statement
(for consideration by the SAC at its February 3, 2009 meeting)

Some Relevant issues:

I. Appendix D of the subject Draft EIS, titled “Potential Impact of a Large Capacity Ferry (“Ferry,” for short) on Marine Mammals in Hawaii,” notes the following:

- a. It is improbable, given the low noise characteristics of the ferry and known whale social behaviors and traveling speeds, that a whale can detect a large capacity ferry traveling at 37 kn in sufficient time to avoid the vessel. Further, because of habituation of the whales to boat noise it should not be assumed that a whale in the direct path of even a slow moving vessel would necessarily dive.

- b. Mortality is highly likely (almost 100%) if a whale is struck by the ferry moving at speeds of 35 kn or greater. At 15 kn, mortality probability is reduced to 79% and at 8.6 kn it is 21%.
- c. The ferry has maintained speeds of 25 kn or less when routing through Sanctuary waters, as reported by onboard designated observers. The report recommends that the ferry continue to avoid passage through Sanctuary waters except for reasons of passenger safety and to reduce speed to less than 25 kn when such routing becomes necessary.
- d. Maintaining a distance of 500 m from any whale is seen as unrealistic because of the high density of whales and it is unlikely that any vessel could meet this standard

II. The ferry has applied though NOAA for a Section 10 Incidental Take Permit under the Endangered Species Act. A Section 10 incidental take permit is required when non-Federal activities will result in a “take” of threatened or endangered wildlife. A habitat conservation plan (HCP) must accompany the application process. The permit, if approved, would list the number of “takes” allowed incidental to ferry operations and will consider mitigation measures to reduce or avoid takes, including routing and speed. There is an opportunity under the process for public comment.

Proposed Responses by SAC to the EIS

- 1. The SAC can take note of the comments in Appendix D and support the recommendation listed under Item c above. It may also choose to support a review of the closest-approach distance of 500 m for the ferry.
- 2. Alternatively, the SAC may again take note of the comments in appendix D, but choose to defer any recommendation on speed or route pending the issuance of the Section 10 Permit commentary period. Under that case, the SAC can choose to comment on the Permit application.
- 3. Regardless of which approach or combinations of approaches is supported by the SAC, the following two items are recommended for acceptance by the SAC:
 - a. Require that copies of the ferry’s logbook entries for the period January 1 to April 30 as prepared by the ferry Master be provided to the Sanctuary Manager and Co-Manager, in addition to copies being provided to other State Agencies as required by the Draft EIS. The Sanctuary should then provide summarized log records on speed, routing, and on near approaches or collisions to the SAC Conservation and Research Committees.
 - b. The proposed use of a suite of cameras (“night navigation triple sensors”—p. 14 of Appendix D) is a positive addition to the whale avoidance policy and its effectiveness should be tested under real-world conditions during actual operations of the HSF, as was noted in the draft EIS.

Draft Recommendation by the SAC Conservation and Research Committees for Protecting the Penguin Bank humpback whale habitat
(for consideration by the SAC at its February 3, 2009 meeting)

The main Hawaiian Islands are the principal breeding and calving grounds for the endangered North Pacific humpback whale (*Megaptera novaeangliae*). From November through May of each year, an estimated 10,000 humpback whales visit Hawaii’s waters with the majority present between approximately the middle of January to the middle of March. The number of whales is estimated to be increasing at approximately 6% annually. Worldwide, wintering humpback whales aggregate preferentially in expansive shallow banks or shallow waters around islands, with “shallow defined as waters of less than 100-fathoms (183-m) deep^{1,2,3,5,6}. Within these waters, the whales use the entire water column, including the bottom substrate.⁴ There are two areas within the Hawaiian Islands having extensive areas with these characteristics. These are the four-island region (i.e., the waters between Maui, Molokai, Lanai, and Kahoolawe—primarily the Kalohi, Auau, and Pailolo Channels) and Penguin Bank (a 1015 sq. km area that extends southwest from the west coast of Molokai approximately 70 km).

Aerial surveys that were begun in 1976 and have continued at intervals ever since show that these two regions have the largest concentrations of humpback whales in the Hawaiian Islands^{1,2,3,5,6}. This

trend has remained consistent throughout the years. Additionally, these two areas have the largest numbers of calves present.

Protecting the humpback whale and its habitat is the primary mission of the Hawaiian Islands Humpback Whale National Marine Sanctuary. Insuring that humpback whales in Hawaii have maximum use of their preferred habitats is a priority of the Hawaiian Islands Humpback Whale National Marine Sanctuary Advisory Council (SAC). Given the demonstrated importance of Penguin Bank to humpback whales in Hawaii, the SAC strongly recommends against any human activity that potentially permanently restricts the humpback whale's free use of Penguin Bank.

The Grays Harbor Ocean Energy Company LLC has recently submitted a preliminary permit application to the secretary of the Federal Energy Regulatory Commission of the United States to construct on Penguin Bank 100 offshore fixed three-leg platforms on the ocean bottom. The platforms would extend 50 ft above sea level. A wave energy converter is to be located within each leg for a total of 300 converters altogether. Additionally, wind turbines may be located on each tower. Wave and wind generators together are expected to yield 1000 MW (megawatts) of power, which will be provided by underwater cable to the island of Oahu. Initial deployment and testing, pending application approvals, is estimated to take place in 2011. Although the production of renewable "green" energy is laudable and seems a priority of the new Federal Administration, these proposed structures on Penguin Bank have the potential to adversely impact humpback whales by limiting their use of one of the two most significant whale habitats in Hawaii. The physical presence of the structures will limit space and possibly interfere with movement and navigation by the whales, may cause acoustic disturbance or acoustic interference through chronic noise generation by the turbines or other mechanical parts (no mention of noise is given in the preliminary permit application), and might increase the risk of shark predation through increased fish aggregations around the piers of the structures (the application refers to the piers as providing the potential for an artificial reef). Unfortunately, there is no mention in the application of the whales or of any mitigation effort related to the use of the habitat by the whales. The only reference to whales is a statement that the project lies within the boundaries of the Sanctuary.

In consideration of the above facts and factors, the Conservation and Research Committees advise that the Gray's Reef Co. be informed of the concerns of the SAC for the use of Penguin Bank for this project. This can be done though a letter from the Chair of SAC or from Sanctuary Management, if desired. We also advise that our concerns be directed also to DLNR and to other local agencies concerned with ocean management and management of natural resources.

¹Baker, C. S. and Herman, L. M. (1981). Migration and local movement of humpback whales (*Megaptera novaeangliae*) through Hawaiian waters. *Canadian Journal of Zoology*, 59, 460-469

²Herman, L. M. and Antinaja, R. C. (1977). Humpback whales in the Hawaiian breeding waters: Population and pod characteristics. *Scientific Reports of the Whales Research Institute (Tokyo)*, 29, 59-85

³Herman, L.M., Forestell, P. H. & Antinaja, R. C. (1980). *Study of the 1976/77 migration of humpback whales into Hawaiian waters: Composite description*. Final Report to the U.S. Marine Mammal Commission. (Report No. MMC-77/19). United States National Technical Information Services, Arlington, VA.

⁴Herman, E. Y. K., Herman, L. M., Pack, A. A., Marshall, G., Shepard, C. M., & Bakhtiari, M. (2008). When whales collide: Crittercam offers insights into the competitive behavior of humpback whales on their Hawaiian wintering grounds. *Marine Technology Society Journal*, 41, 35-43.

⁵Mobley, J. R. Jr., Bauer, G. B. & Herman, L. M. (1999). Changes over a ten-year interval in the distribution and relative abundance of humpback whales (*Megaptera novaeangliae*) wintering in Hawaiian waters. *Aquatic Mammals*, 25, 63-72.

⁶Mobley, Jr. J.R., Spitz, S., & Grotenfendt, R. (2001). Abundance of humpback whales in Hawaiian waters: Results of 1993-2000 aerial surveys. Report for Hawaiian Islands Humpback Whale National Marine Sanctuary.

Draft Recommendation by the SAC Conservation and Research Committees for Issuing a Letter to the International Whaling Commission Against Resumption of Humpback Whaling in the North Pacific (for consideration by the SAC at its February 3, 2009 meeting)

The recent down-listing of the humpback whale by the International Union for the Conservation of Species (IUCN) from “Endangered” to “Least Concern” may encourage efforts to resume whaling of this species in the North Pacific by Japan or by other nations currently actively whaling. As an example of how this process works elsewhere, Denmark, apparently noting the recovering population of North Atlantic humpbacks, asked at the June 2008 meeting of the International Whaling Commission for a strike limit of 10 humpback whales annually for the period 2008-2012 for West Greenland. The Scientific Committee had agreed that this strike limit would not harm the population. The Commission was deeply divided over this matter and it was put to a vote. The proposal was defeated by 36 votes to 29 with 2 abstentions.

It is also worth noting that Japan is already pursuing whaling for other great whale species under a special permit in the North Pacific as well as in the Antarctic. In 2007, Japan took 551 Antarctic minke whales, and also took 207 common minke, 100 sei, 50 Bryde’s and 3 sperm whales in the North Pacific.

Of primary concern to the HIHWNMS is the North Pacific population of humpbacks, not only those in Hawaiian waters but the wider population many of which may winter in Hawaiian waters. Recent data from SPLASH shows that humpback whales that winter in Hawaiian waters distribute themselves widely across North Pacific high latitude summer feeding grounds, though with a major concentration in Southeast Alaska, and that there is some interchange of whales between Hawaii and the eastern Pacific (Mexican) winter grounds as well as the western Pacific (Japanese) winter grounds. Furthermore, the SPLASH data indicate that some stocks of North Pacific humpbacks are not recovering as well as others. Consequently, any resumption of commercial whaling for humpbacks in the North Pacific has the potential to further decimate stocks that are in poor recovery and to remove individuals with high reproductive potential from other stocks that may occasionally visit these areas of poorly-recovering stocks and contribute significantly to their eventual recovery. The Oceania exemption to down-listing by the IUCN refers strictly to a few stocks of the Southern Hemisphere humpbacks and does not offer continued “endangered” designation to any humpback whales north of the Equator. This is of special concern for the Western North Pacific humpbacks, as they exist in far fewer numbers than in other areas of the North Pacific and their recovery remains tenuous.

It is proposed, therefore, that the following recommendation be forwarded to the current U.S. Commissioner to the International Whaling Commission IWC, Dr. William (Bill) Hogarth, Dean, College of Marine Sciences, University of South Florida.

The recommendation would put on record the objection of the Sanctuary to any resumption of whaling for North Pacific humpbacks, and serve as a reference for the U.S. Delegation should any nation propose such resumption.

Recommended letter:

The Sanctuary Advisory Council of the Hawaiian Islands Humpback whale National Marine Sanctuary (“the Sanctuary”) has noted the recent downlisting by the International Union for the Conservation of Species (IUCN) of the humpback whale from “Endangered” to “Least Concern.” Although the mission of the Sanctuary is to protect the North Pacific humpback whale and its habitat in Hawaii, it is well documented that these whales are migratory and during summer months distribute themselves widely along high-latitude regions, though with strong preferences for areas around southeast Alaska. There is also some interchange of North Pacific humpback whales between the three principal winter grounds: the central Pacific (Hawaii), the eastern Pacific (western Mexico and outlying islands), and the western Pacific (the Ogasawara [Bonin] Islands and the Ryukyuan Islands, principally), as documented in a recent North-Pacific-wide international research project (SPLASH) (Structure of Populations, Levels of Abundance and Status of Humpback Whales in the North Pacific)¹. . The western Pacific region has not

¹ Calambokidis, J., Falcone, E. A., Quinn, T. J., Burdin, A. M., Clapham, P. J., Ford, J. K. B., Gabriele, C. M., LeDuc, R., Mattila, D., Rojas-Bracho, L., Straley, J. M., Taylor, B. L., Urban, J. R., Weller, D., HIHWNMS SAC MINUTES #54

seen the degree of recovery of the humpback whale that has been occurring in the central and eastern Pacific regions. There is documentation that some whales wintering in the western Pacific may summer in the upper central or eastern Pacific feeding areas. Any resumption of commercial whaling for humpbacks in the North Pacific has the potential to further decimate stocks that are in poor recovery and to remove individuals with high reproductive potential from other stocks that may occasionally visit these areas of poorly-recovering stocks and contribute significantly to their eventual recovery. Because of the interchange of whales among stocks, taking of whales through whaling cannot discriminate among these stocks reliably no matter where they are taken. Consequently, the recovery of depleted stocks may be threatened. The Sanctuary therefore urges that any proposal to resume whaling of North Pacific humpbacks be defeated during the voting process. The benefits of nonlethal whale research to whale conservation and to the understanding of whale behavior and whale societies, together with benign whale watching activities, have enormous scientific, educational, political, social, moral, and economic advantages that far outweigh any economic or scientific gains attributable to whaling operations.

Attachment 5

TO: Members of SAC

FROM: Lou Herman, Chair
Conservation Committee

Definition of “take” of a marine mammal

Take:

* Defined under the MMPA as "harass, hunt, capture, kill or collect, or attempt to harass, hunt, capture, kill or collect."

* Defined under the ESA as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct."

Harassment: Under the 1994 Amendments to the MMPA, harassment is statutorily defined as, any act of pursuit, torment, or annoyance which—

* (Level A Harassment) has the potential to injure a marine mammal or marine mammal stock in the wild; or,

* (Level B Harassment) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering but which does not have the potential to injure a marine mammal or marine mammal stock in the wild.

Incidental Taking: An unintentional, but not unexpected, taking

Attachment 6

Education Committee Report *Liz Kumabe*

Over this past year since the last SAC meeting, the SAC Education Committee has conversed over teleconference meetings on July 3, Aug. 7, Oct. 2, Nov. 6, and Dec. 4. These meetings served as a wonderful opportunity to brief SAC members of the multitude of activities undertaken by the individual program staff. Briefly, the meetings covered the following:

- Overview of all HIIHW education and outreach priorities and programs, by island, objectives, audiences, results
- Evaluation of education programs
- New programs, such as: Tesoro curriculum, NCL ship-board education
- HIIHW education program plan
- How to make the committee more effective; evaluate meeting frequency, responsibilities

** Mahalo to Jean Souza for assembling these talking points.

Attachment 7

Research Committee Report

Adam A. Pack, Ph.D.

This report contains a brief summary of events, issues and accomplishments related to research since the SAC meeting on June 12, 2008

Joint Research/Conservation Committee Conference Calls: Since the SAC meeting on June 12, 2008, the research and conservation committees have been working together and communicating often. There were five joint conference calls of the SAC research and conservation committees: In 2008 on 6/18, 9/25, 10/16, 11/20, and in 2009 on 1/16. Many topics were discussed during these conference calls including a) a recommendation to expand the current boundaries of the HIIHWNMS to include areas within the 100 fathom isobath that have experienced an increase in the concentration of humpback whales; b) the Grays Harbor Wave Energy Project; c) the IUCN action to downlist as endangered humpback whales in some areas; d) the addition of new species to the Sanctuary; e) the management plan review; and f) the technology being used for whale avoidance during night time transits of the Hawaii SuperFerry. Summaries of these calls are available from Chris Brammer. The following summarizes the key actions resulting from these discussions.

- A draft recommendation from the SAC Conservation and Research Committees was generated on the need to protect the Penguin Bank habitat of humpback whales from the development of expansive permanent structures including the proposed Grays Harbor Wave Energy Project. The recommendation is for consideration by the SAC.
- A draft recommendation was jointly developed by members of the Conservation and Research Committees in response to the draft Environmental Impact Statement regarding large Ferry Operations in Hawaiian waters. The recommendation is for consideration by the SAC.
- A draft recommendation from the SAC Conservation and Research Committees was generated for issuing a letter to the International Whaling Commission Against Resumption of Humpback Whaling in the North Pacific. The recommendation is for consideration by the SAC.

SAC request for information on research being conducted on humpback whales in HIIHWNMS. At a previous SAC meeting, SAC members requested a list of the current permitted researchers carrying out studies of humpback whales in Hawaiian waters. Attachment I provides the names, permit numbers, and focuses of the research groups carrying out humpback whale research in Hawaiian waters during the 2009 research season.

Information on latest published research on humpback whales. At a previous SAC meeting, we discussed the benefit of providing the SAC with information on the latest information on humpback whales in Hawaiian waters. Attachment II is a list of publications on humpback whales in Hawaii appearing between 2006 and 2009.

Summary of Sanctuary supported research. At a previous SAC meeting, we discussed the need for the SAC to be kept apprised of the research being supported by the Sanctuary. Aside from the Sanctuary's support of the research on the SPLASH project (Structure of Populations, Levels of Abundance, and Status of Humpback Whales in the North Pacific), University of Hawaii doctoral candidate Alison Stimpert has been conducting research on humpback whale acoustics with Sanctuary support. Attachment III is a research update provided by Ms. Stimpert.

Priorities for 2009 research committee: *The Research Committee's proposed objectives for 2009 are to:*

- a. Work with Sanctuary research director to identify research priorities and objectives of the HIHWNMS
- b. Write letters of support on behalf of SAC for research program activities and funding
- c. Continue to educate SAC members on latest findings with humpback whales and their habitat as well as current potential threats (e.g., entanglement, ship strikes, etc.) and updates on mitigation measures
- d. Increase interaction with experts on issues related to research and protection of humpback whales to help educate Research Committee and SAC members
- e. Review research reports relevant to current issues facing Hawaii humpback whales and/or their habitat (e.g., proposed wave energy platforms placed on Penguin Bank, Draft Environmental Impact Statement for Large Ferry Operations), and where appropriate prepare resolutions for SAC response
- f. Identify research approaches to address current issues facing humpback whales and their habitat, and review available data
- g. Continue to hold joint conference calls with conservation committee and where appropriate work closely together with conservation committee
- h. Work with Sanctuary staff to add information to Sanctuary website on latest research findings on humpback whales in Hawaiian waters and those groups currently conducting research in Sanctuary waters on humpback whales
- i. Provide input to Sanctuary staff for management plan review on relevant new research findings on humpback whales, future research goals, and possible modifications to Sanctuary (e.g., increasing current boundaries to reflect increasing whale population)
- j. Deal with local issues as tasked by SAC

Attachment I
2008-09 State of Hawaii Humpback Whale Research Permits²

SH2009-01 Ann Zoidis, M.S. Andy Day, Tom Norris CETOS Research Collective

They plan to continue to conduct an underwater behavior and acoustic study of humpback whales. They will collect social sounds made between animals (particularly between mothers and calves) while recording behaviors at the same time. They are also attempting to verify that the calf is producing a unique type of social sound (vs. the mother or some other adult in the pod). They will continue to assess behaviors that occur during social sound production and assess if there are certain group compositions, behaviors or configurations that result in social sound production.

Principal areas of work: Four-island region

**SH2009-02 Adam Pack, Ph.D. Lou Herman, Andrea Bendlin,
Elia Herman, Aliza Milette, The Dolphin Institute
Jamie Gibbon, Joel Barkin**

They will continue long-term population studies of humpbacks in the Eastern, Western and Central North Pacific Ocean. These studies include: 1) in air photo identification of individuals to determine individual life histories, social role, migration, habitat use, distribution, and reproductive status; 2) underwater videogrammetry to determine the sizes of animals in different social roles and the relationship of size to social role and derive sexual maturity estimations; 3) underwater videography to document behaviors and aid in sex determination; 4) passive acoustic recordings to determine song source levels and propagation characteristics; 5) crittercam studies of animals to help in understanding mating system; 6) skin biopsy sampling for sex determination and individual identification to supplement the crittercam information.

Principal areas of work: Hawai'i island, Oahu, possibly Maui

**SH2009-03 Dan R. Salden, Ph.D. Phillip Colla, David
Glickman, Jeff Kalbach, Jill Hawaii Whale Research
Mickelson, Doug Perrine, Foundation
Linda Silvers, Harrison
Stubbs, Beck Straussner**

They will continue to work on long-term association patterns and periodicity in humpbacks. The research emphasizes fluke identification -- looking for new animals as well as resights. Also their research will continue to focus on humpback whale competitive group dynamics on the Maui winter grounds.

Principal areas of work: Four island region

**SH2009-04 Jim Darling Karen Miller, Meagan
Jones, Charles Nicklin, West Coast Whale Research
Elizabeth Mathews Foundation**

They will continue long-term research on the function of the humpback whale song. This includes playback experiments by playing specific sounds to subject whales and monitoring the reaction. Previous research has also included female reproductive strategies and photo-identification.

Principal areas of work: Four island region

² Information provided by David Nichols
HIHWNMS SAC MINUTES #54

The Hawaiian Islands Humpback Whale National Marine Sanctuary's research for this season will include full-body image collection for scar and health monitoring and to also continue with SPLASH follow-up research/analysis.

Principal areas of work: Four island region

Their research includes all cetaceans in Hawaiian waters including the following endangered species: blue whale (*Balaenoptera musculus*), fin whale (*B. physalus*), humpback whale (*Megaptera novaeangliae*), sei whale (*B. borealis*), and sperm whale (*Physeter macrocephalus*). Specifically, the primary research topics are: 1) humpback whale biology and behavioral ecology, 2) stock structure, demography, movement patterns, relative distribution of cetaceans, and 3) vocalizations and behavior of cetaceans in Hawaiian waters. The core study area is the leeward coast of the island of Hawaii, but activities might be conducted in any of the near shore waters of the main and northwestern Hawaiian Islands, including waters off the Northwestern Hawaiian Islands Marine National Monument.

Principal areas of work: Hawai'i island

They will continue the long-term study of the life history and vital parameters (trends in reproduction, behavior and distribution patterns) of the North Pacific humpback whale in the waters around Hawaii. Their study focuses on identifying individual whales (especially mothers and calves) and documenting calf/juvenile abnormalities and mortalities.

Principal areas of work: Four island region

They plan to study the behavior and dynamics of humpback whale female and calf pairs in the waters off of Maui. Up to 540 takes for close vessel approach, photo-identification, focal follows, underwater observations, collection of sloughed skin, and incidental harassment are requested annually to test the hypotheses that behavior, dynamics and distribution of female/calf pairs varies between different stocks and may be influenced by abiotic factors such as aspects of bathymetry, water quality, and levels of vessel traffic.

Principal areas of work: Four island region

The overall objective of the proposed research is to determine many aspects of the behavior and use of acoustic environment by large whales, focusing on the Hawaiian populations of humpback whales (*Megaptera novaeangliae*) and two species of beaked whales (*Ziphius cavirostris* and *Mesoplodon densirostris*) as models. They use passive acoustic recording and suction-cup tagging techniques to investigate these issues. Acoustic data collection involves recording sounds produced by humpback whales, as well as ambient noise, using towed hydrophone arrays. Tagging operations produce behavioral diving and movement data as well as acoustic recordings from the tags. Behavioral observation and photo identification are used to supplement acoustic and tagging data. Specific objectives in using acoustic tags

are to understand how cetaceans use acoustics to coordinate and mediate behavior within a group environment, to understand how echolocation is used in foraging, and to determine the acoustic characteristics of the animals' sound production, especially when they dive to deep depths.
Principal areas of work: Four island region

SH2009-10 Robin Baird Daniel Webster, Cascadia Research Collective
Gregory Schorr

The team's efforts actually focus on odontocetes but will opportunistically obtain humpback whale data to help understand humpback whale biology and behavioral ecology including stock structure, demography, movement patterns, and relative distribution.
Principal areas of work: Hawai'i Island

SH2009-11 Jason Turner, Ph.D. University of Hawaii Hilo

The team plans to conduct weekly survey cruises from January-April in waters surrounding Hilo Bay, Hawai'i. Survey information including group size estimation, number of calves, position, and direction of movement will be recorded for each group encountered. Photographs will be taken of both the ventral portion of the fluke and dorsal fin for all individuals. Digital photos will be analyzed and used to compare to 1) identified humpback whales from other locations in the Hawaiian Islands and 2) identified humpback whales from Bering Sea populations. Recordings will be analyzed with Jan Straley from UA-Sitka during her two-week stay in Hilo to work with UH Hilo marine mammal course.
Principal areas of work: Hawai'i Island

Attachment II
2006-2009 scientific publications and reports on humpback whales in Hawaiian waters

2006:

Au, W. W. L., Pack, A. A., Lammers, M. O., Herman, L. M., Deakos, M. H., Andrews, K. (2006). Acoustic properties of humpback whale songs. *Journal of the Acoustical Society of America*, 120, 1103-1110.

Darling, J. D., Jones, M. E., & Nicklin, C. P. (2006). Humpback whale songs: Do they organize males during the breeding season? *Behaviour*, 143, 1051-1101.

2007:

Green, S. R., Mercado III, E., Pack, A. A., & Herman, L. M. (2007). Temporal structure in humpback whale (*Megaptera novaeangliae*) songs. *Aquatic Mammals*, 33, 202-213.

Johnston, D. W., Chapla, M.E., Williams, L. E., & Mattila, D. K. (2007). Identification of humpback whale *Megaptera novaeangliae* wintering habitat in the Northwestern Hawaiian Islands using spatial habitat modeling. *Endangered Species Research*, 3, 249-257.

Pack, A. A., & Herman, L. M. (2007). Using electronic maps of real-time whale locations to mitigate vessel collisions with whales. Final Report to the National Fish and Wildlife Foundation, Washington, D.C. 78p.

2008:

Calambokidis, J., Falcone, E. A., Quinn, T. J., Burdin, A. M., Clapham, P. J., Ford, J. K. B., Gabriele, C. M., LeDuc, R., Mattila, D., Rojas-Bracho, L., Straley, J. M., Taylor, B. L., Urban, J. R., Weller, D., Witteveen, B. H., Yamaguchi, M., Bendlin, A., Camacho, D., Flynn, K., Havron, A., Huggins, J., & Maloney, N. (2008). SPLASH: Structure of Populations, Levels of Abundance and Status of Humpback Whales in the North Pacific. Final Report for Contract AB133F-03-RP-00078 to U.S. Department of Commerce.

Herman, E. Y. K., Herman, L. M., Pack, A. A., Marshall, G., Shepard, C. M., & Bakhtiari, M. (2008). When whales collide: Crittercam offers insights into the competitive behavior of humpback whales on their Hawaiian wintering grounds. *Marine Technology Society Journal*, 41, 35-43.

Zoidis, A. M., Smultea, M. A., Frankel, A. S. et al. (2008). Vocalizations produced by humpback whale (*Megaptera novaeangliae*) calves recorded in Hawaii. *Journal of the Acoustical Society of America*, 123, 1737-1746.

2009:

Pack, A. A., Herman, L. M., Spitz, S. S., Hakala, S., Deakos, M. H., & Herman, E. Y. K. (in press, 2009). Male humpback whales in the Hawaiian winter grounds preferentially associate with larger females. *Animal Behaviour*.

Attachment III
Noise, the acoustic environment, and the use of sound by whales around Hawaii
Alison K. Stimpert and Whitlow W.L. Au

Our research aims to address questions about the variety, acoustic characteristics, and levels of social sounds produced by humpback whales on the Maui breeding grounds. We are interested in social sounds as a potential channel of acoustic communication outside of the well-known humpback whale song. These questions are also currently very important due to increasing levels of anthropogenic noise in the oceans, and its potential effect on all forms of acoustic communication by marine animals.

To study social sounds, we use suction-cup attached tags (DTAGs and Bprobes), which give high quality acoustic recordings from locations on the whale itself. Tags record behavioral diving and underwater movement data as well as acoustic information, so we hope to analyze sound production as it relates to body movements. Surface behavioral observation and photo identification supplement acoustic and tagging data.

We work in collaboration with David Mattila, Ed Lyman, and other staff at the Hawaiian Islands Humpback Whale National Marine Sanctuary (HIHWNMS) in Maui. Our tagging platform is either the sanctuary's 22-foot SeaCat, or a 35-foot sanctuary vessel, the Hihimanu. The support of the sanctuary has been invaluable. None of this work would be possible without the resources of the sanctuary and the expertise of David, Ed, and others.

We have successfully approached and tagged 24 humpback whales during the past two field seasons, and we collected acoustic and dive behavioral data from all of the whales tagged. Most of these attachments completed a full carry (3 - 5 hours), releasing on cue because of an electronic timer. This has resulted in over 61 hours of data over the two field seasons. Most of the whales have been tagged in competitive groups, with a focus on secondary escorts in 2007 and primary escorts in 2008. One nuclear animal was tagged in 2008.

Data analysis is in progress. Several abstracts have been presented at scientific meetings both nationally and internationally, outreach talks have been given to the public in Honolulu and Maui, and full journal articles are currently in preparation.

Stimpert, A.K. and Au, W.W.L. 2008. Humpback whale (*Megaptera novaeangliae*) social sounds in Hawaii. *Proceedings of the International Conference for the Effects of Noise on Aquatic Life, Nyborg, Denmark, August 13 – 17, 2007. Bioacoustics 17: 48-50.*

Stimpert, A.K. 2007. Megaptera-blog: A morning in the life of a humpback whale. *Ka Pili Kai 29(3): 3-5.*

Stimpert, A.K. 2007. Zoology 101: How to tag a humpback whale. *Ka Pili Kai 28(2): 3-5.*

Stimpert, A.K., Au, W.W.L., Wiley, D.N., Mattila, D. 2008. Contextual sound production by tagged humpback whales (*Megaptera novaeangliae*) on a feeding and breeding ground. *Oral presentation at the 156th Meeting of the Acoustical Society of America. Miami, Florida, November 10-14, 2008.*

Stimpert, A.K., Au, W.W.L., Mattila, D., Lyman, E., Hurst, T., Littman, E. 2008. Potential for masking of humpback whale social sounds in the “noisy bar” of the Hawaiian breeding grounds. *Oral presentation at the 2nd International Conference on Acoustic Communication by Animals. Corvallis, Oregon, August 12-15, 2008.*

Stimpert, A.K. and Au, W.W.L. 2007. Humpback whale (*Megaptera novaeangliae*) social sounds in Hawaii. *Poster presentation at the International Conference for the Effects of Noise on Aquatic Life, Nyborg, Denmark, August 13 – 17, 2007.*

Stimpert, A.K. 2008. Learning to “speak whale” using suction cup tags. *Oral presentation – Bishop Museum, Honolulu, HI. May 17, 2008.*

Stimpert, A.K. and Au, W.W.L. 2007. Can humpback whales save the earth from destructive space probes? *Educational Lecture Series at Hanauma Bay Nature Preserve, Honolulu, HI. November 15, 2007.*

Stimpert, A.K. 2007. 20,000 millimeters under the sea (approximately): humpbacks and sound under water in Hawaii. *Educational Lecture Series at Hanauma Bay Nature Preserve, Honolulu, HI. April 19, 2007.*

Attachment 8

Aquaculture Working Group Report *Mike Stanton*

Update

According to Neil Sims of Kona Blue they have sent their amended draft supplementary EA to the State in which they have requested a reduction in the number of their existing smaller cages, replacing them with larger versions.

The profitability of their operation depends on being able to scale up to bigger cages according to Neil.

The new plan calls for removing the 8 existing smaller cages, replacing them with 5 larger 5,000 to 7,000 sq meter versions using exactly the same mooring grid dimensions.

The new larger cages will comprise 2 R & D cages, 1 nursery cage and 2 production cages. Kona Blue's expansion to Mexico is now 50 % funded, the balance is in process of being secured to commence operations later this year.

Blue Seas, Green Communities Working Group
Teri Leicher

Our Promise

To protect our sanctuary resources and expand our stewardship efforts in order to contribute to the greening of our sanctuary community.

Acting Now

The sanctuary will purchase biodegradable "green" products from local green vendors for office use and use at Council meetings (food and drink containers, paper, bags) when possible.

The sanctuary will recycle all items possible based on availability by island.

Proposed Projects Focusing on Education and Community Change

Support water quality awareness

- ~ conduct educational water quality testing including a "snapshot day" with partners
- ~ participate in county storm drain stenciling projects
- ~ encourage planting of appropriate Native Hawaiian plants and other species along the shoreline

Support the greening of Hawai'i businesses

- ~ provide information that simplifies the going green process
- ~ sponsor annual green business award

Support the greening of vessels operating in the sanctuary and throughout Hawai'i

- ~ provide accurate information on biodiesel conversion
- ~ support additional pump-out facilities
- ~ support use of green products on-board vessels

Proposed Products

Information sheets on appropriate topics available online (vendor list, plant list, biodiesel information, etc.)

Displays promoting community action

Website section focusing on initiative



The Blue Seas, Green Communities Initiative is a project of the National Marine Sanctuaries System. This effort is a partnership project between Advisory Council members and staff.

Attachment 10

Hawai'i County Report

Luana "Nan" Howell

Justin Viezbicke (Coordinator)

Victoria (Vicky) Newman (Alternate)

Accomplishments:

- Home school group (30 students & ~20 parents) presentation on Coral Reefs and impacts of human interactions.
- Monthly West Hawaii Marine Mammal Response Network (WHMMRN) meetings.
- Kaloko-Honokohau National Historic Park Student and Public Awareness Day (3 day event with 5 volunteers.)
- December Stranding Response training with HPU staff and 30 volunteers.
- Humpback Whale presentations at the Outrigger Hotel on Thursdays 9-11 and at Puukohola Heiau National Historical Site on Fridays 9-11.

Events Attended:

- CORAL Voluntary Marine Standards ongoing meetings,
- NOAA Fisheries Service Public Lecture – "Impacts of Tourism on Wild Dolphins" with Dr. Lars Bejder of Murdoch University in Australia,
- West Hawaii Fisheries Council meetings,
- Monthly Reef Talks,
- November HIHWNMS Boater's Workshop,
- December Stranding Response training with HPU staff.

Hot Topics:

- Hawaiian monk seal B 18-19 (18 month old, male) is frequenting the West Hawaii coast and hauling out on many popular beaches as well as foraging in the Kaloko-Honokohau Harbor. He is in the middle of his first catastrophic molt.

Attachment 11

Kaua'i County Report *James Yamamoto*



Kaua'i Report

James T. Yamamoto, Kaua'i Representative
Sanctuary Advisory Council
February 3, 2009



The Hawaiian Islands Humpback Whale National Marine Sanctuary

Accomplishments (Assistance):

- *Science at the Beach at Poipu Beach Park*

Event held on July 18, 2008 from 8:00 a.m. to 12:00 noon at the Poipu Beach Park. Sixty kids from the Koloa County Summer Fun program participated. The early elementary participants rotated stations and one of the stations, Ocean Etiquette, was handled by this person. Using NOAA's guidelines, etiquette points were highlighted on letter pages, printed in color, and then laminated. Copies were taped on to the table top and, as they rotated, individuals were asked to read out loud each of the points. Discussion followed each reading by getting the kids to think and relate. For the kids, abstract? No. Day to day living? Absolutely. Excellent points outlined in NOAA's *Marine Wildlife Viewing Guidelines*.

- *11th Annual Kaua'i Family Ocean Fair at Kilauea National Wildlife Refuge • July 12, 2008*

On June 2, Monday, sought and received permission from the Kaua'i County (Cindy Duterte, Program Administrative Officer; Kylan Dela Cruz, Deputy Director of the Department of Parks & Recreation) to distribute Ocean Fair flyers to the 500 youths enrolled in the County's Summer Fun program at Koloa School, Kalaheo Neighborhood Center, Wilcox School, Lihu'e Neighborhood Center, Kaumuali'i School, Kapa'a Neighborhood Center, and at the Kilauea Neighborhood Center. Distribution was completed on Monday the 2nd and Tuesday the 3rd.

On July 11 (Friday) helped with transportation of equipment and supplies from the Lihu'e Sanctuary office to the Fair site and while there also attended the final meeting before the big day. The Saturday event was well attended by both residents and visitors. The local newspaper, The Garden Island, had a nice story on Sunday, the 13th, on the front page thanks to photographer/writer Dennis Fujimoto and reporter Rachael Gehrlin. Took video of the day's activities and printed an edited version to DVD (run time eight minutes).

Kauai's annual Family Ocean Fair at the Kilauea National Wildlife Refuge is an immensely relevant and superbly planned, executed activity. Kudos to Jean Souza, Kauai's Sanctuary Programs Coordinator.

- *The "NCL Science Day at Sea" Project—*

Seventy-five students from Kaua'i High School in Lihu'e and Chiefess Kamakahelei Middle School in Puhi (Lihu'e) attended—on Thursday, October 23, 2008—the three-hour session on board the *Pride of America* cruise ship berthed at Nawiliwili Harbor. Students rotated sessions from sea turtles to humpback whales, to planktons, to a ship's tour. Dennis Fujimoto, writer/photographer, on board from The Garden Island newspaper. My assignment was video documentation while providing chaperone duties to the *Jellies* sub-group (eight graders from Chiefess).

Seventy students from King Kaumuali'i Middle School in Hanama'ulu (Lihu'e) participated in this project on Friday, October 24, 2008. Assigned to full time video documentation and was able to film each of the sub-groups as they moved from one session to the next.

For lunch, students seemed to enjoy the burger/hot dog buffet lunch offered complementary by the NCL. Overall, from an educational standpoint, this was a superb introduction to conservation and to the sciences. The NOAA presenters were energetic and on point, neither talking up nor down. From a professional



view, this was extremely well done and undoubtedly a school excursion well worth the planning, time, and effort as the students appeared fully alert, focused, and absorbed in the set-ups and presentations (redundancy intended). Well done!

Events Attended:

- *Reef and Shoreline Presentation by Cluck Blay—*

Friday, July 18, 2008 attended a reef and shoreline presentation by geologist Chuck Blay at the conference room, Lihue Public Library from 7:00 p.m. to 9:00 p.m. Interesting points about the history of our coastal development and the current status of same. Some of discussion technical and out of reach by this lay person but a good, informative night nonetheless. Organized by Mimi Olry of the *Hawaiian Monk Seal Conservation Hui*.

- *Monk Seal Workshop—*

On Saturday, August 16, 2008 attended a workshop conducted by Mimi Olry of the *Hawaiian Monk Seal Conservation Hui* from 9:30 a.m. to 12:30 p.m. at the conference room, Kapa'a Public Library. Powerpoint discussion the status of the Monk Seal. At 11:00 a.m., participants went out to the beach fronting the library where, almost like an ordered kid's Mac meal, a young Monk Seal hauled herself on shore, whereupon the Miyashiros proceeded to rope the area off with Mimi giving a running account of the what to and what not to do.

- *Semi-Annual Monk Seal Count—*

Assigned Zone 10 (Kapa'a Beach Park, Library, Kapa'a Scenic Lookout, and Kealia Bay) for the October 18, 2008 statewide Monk Seal Count. Two known seal haul-outs in the zone in recent days, but for that particular Saturday, none observed. Alas, not a day of excitement in my assigned area.

- *HIHWNMS-Kaua'i Lecture—*

Whale season kickoff session at the Chiefess K Middle School Cafeteria (Puhi) on November 17, Monday from 6:00 p.m. to 7:30 p.m. NOAA researcher and mammal response coordinator, Ed Lyman, presented overview of humpback whales and entanglements. Jeff Pollock also gave an summary of the enforcement processes of NOAA's Office of Law Enforcement. The U.S Coast Guard was also present in the person of Eric Roberts. Forty individuals attended. Jean Souza, coordinating.

- *Boater Workshop—*

Tuesday, November 18, 2008 at the West Kaua'i Technology and Visitor Center (Waimea). Discussion on conducting safe boating by the public and commercial interests. Ed Lyman presented and Jeff Pollack and Eric Roberts were there to provide further information. Six individuals present.



• *Kaua'i People Weekly Publication* • November 26, 2008—

Approached by *People* reporter, Anne O'Malley, Jean suggested she seek a story about whales from this perspective. Not wanting to deny the Sanctuary a chance for publicity, I agreed to do the interview. Thus the story, "Volunteer finds fascination in whales," in their weekly *Hui Kokua* feature.



• *Hawaii Monk Seal Conservation Hui*—

From the birth of Monk Seal W48/49 on September 8, 2008 in the south shore area of *Maha'ulepu*, I have been involved with the pup-sitting chores involving two days a week, Tuesdays and Thursdays, 9 a.m. to 12:30 p.m. Pup was weaned after five weeks. At this point, sitting is still ongoing. Dr. Mimi Olry, Response Coordinator, Division of Aquatic Resources (DLNR) in charge.

• *Whale Count with Local Boy Scout Troops*—

Will do a conservation project with boy scout troops on Kaua'i. An introduction to marine and environmental conservation, scouts will do a Saturday of whale observations off the Kapa'a coastline. They will record whale behavior and in a post-session, they will explain why a healthy ecosystem is important to animal life. Boy scouts are known for this principle: "you leave the place cleaner than when you came." Scouts and their parents of the Kapa'a Troop 133 (United Church of Christ) are the first to be introduced. In the preliminary meeting, on Tuesday, January 20th, 2009, ten scouts and eight parents were introduced to the project. They agreed to do the *Whale Count* on Saturday, January 24, 2009.

• *Ocean Count Training Session*—

Will assist Jean with the 2009 Ocean Count Training session at Chiefess Kamakahelei Middle School this Saturday the 24th after my project with the scouts.

CELEBRATING INTERNATIONAL YEAR OF THE REEF CONNECTING CHILDREN WITH NATURE



Free Materials for Educators



Discovery



Make and take

11th Annual Kauai Family Ocean Fair at Kilauea Point National Wildlife Refuge Saturday, July 12, 2008 10 am to 4 pm

Offsite parking at Kauai Christian Academy on Kilauea Road
Free shuttles to Ocean Fair and Kilauea Refuge/Lighthouse

Hands-on Learning * Free Materials for Educators
Keiki Activities * Demonstrations * Exhibits * Fun * Crafts

Learn about our reefs, seabirds, Hawaiian monk seals, sea turtles, and marine mammals; free marine curriculum and resources for educators; gyotaku (fish) prints; art out of ocean drift debris; "Reef" hats; reef creatures face painting; tying knots and safe boating; ocean-themed refrigerator magnets and other activities

Exhibitors: US Fish and Wildlife Service Kilauea Point National Wildlife Refuge, Kilauea Point Natural History Association, NOAA's Hawaiian Islands Humpback Whale National Marine Sanctuary, NOAA Fisheries, DLNR/NOAA Hawaiian Monk Seal Conservation Hui, Malama Mahaulepu, US Coast Guard Auxiliary, Kauai Public Land Trust and others

Lunch wagon: Savage Shrimp

This event is co-sponsored by NOAA's Hawaiian Islands Humpback Whale National Marine Sanctuary, Kilauea Point National Wildlife Refuge, and the Kilauea Point Natural History Association
For more information, contact the Kauai Sanctuary Office at 246-2860

Free Admission+Free Activities+Free Admission+Free Activities

Attachment 12

Maui County Report *Cheryl Sterling*

Wave Energy Project

On September 2, the Kihei Sanctuary hosted a briefing on the Oceanlinx wave energy project slated for deployment off the Maui's north shore. The project is currently in the EIS phase and about 2 years out. Primary concerns relate the footprint of the system, the mooring system, water quality issues and noise. In general, the project seems to have a low environmental impact.

Mahalo to Ed Lyman for providing his meeting notes; key points summarized below:

Peter Kalish, a representative of Oceanlinx proposed that wave units would be located 1/2 mile off Pa'uwela Pt. in around 100 feet of water to take advantage of windward Maui's wave action. Each unit resembles a large inverted shoebox 30meters by 20m by 30m (high) and contains the Oscillating Water Column device. Displacement of water in the box from the passing swells (not breaking waves) moves air in and out of the box. A funnel attached to the box and housing a turbine increases airflow bi-directionally to 500 km/hr. The turbine vanes are computer-controlled to take advantage of the bi-directional airflow and sit 30m above, turning at 700 rpms. This turbine is the only moving part of the unit and is extremely quiet.

The unit is tightly anchored to the ocean bottom by a 4 point anchoring system. Overall footprint considering anchoring is around 400 feet, depending on site. Unit would probably end up being a FAD. Units can be placed close together or spaced out. Supply cable is about 6" diameter and buried into seafloor. Its landing site would have directional boring at shoreline to avoid damage to coral and to protect it from waves, and tie into MECO's electrical substation located on shore.

Peak output of a single unit is 1.5 MW; enough energy to supply 8,000 - 10,000 homes. Oceanlinx' goal is to produce approximately 2.7MW which requires 2 to 3 units. The 2 - 3 units would supply about 1% of Maui's present energy needs. While lower output than wind, wave energy is more dependable and constant. In the future, these units could also be set up for desalination and provide approx. 9,000 homes with water.

Grays Harbor Ocean Energy Project Follow Up

Maui's energy coordinator recently commented that project developers have not yet submitted information to the county, and there would be numerous concerns with the Penguin Banks wind farm site. In addition to the proposed location in Sanctuary waters, logistical concerns with where power cables land on Molokai would also need to be addressed from environmental and cultural perspectives.

Superferry EIS

Following the January 16 Conservation Committee call, SAC alternate Robin Newbold raised a concern of who would be involved in oversight of HSF's adherence to the EIS. In particular the following recommendations:

- Continue to maintain lower speeds (< 25 knots) when traveling through all waters less than 100 fathoms (regardless of Sanctuary status) during whale season (Jan-Apr).
- Consider a revised alternative route during whale season (Jan-Apr)—the current approved "alternate route" runs through the eastern base of Penguin Bank, where humpback whales are found in highest densities during the winter season (Figure 11). The route proposed earlier by Greg Kaufman of Pacific Whale Foundation that passes south of the Bank would be preferred.

A suggestion was made that the Sanctuary ask HSF to regularly provide speed and route information along with a report on the degree to which the other EIS recommendations are being followed.

Lanai Aquaculture Project

On request from the Conservation Committee, follow up was initiated to determine the status of the Maui Fresh Fish (MFF) aquaculture farm project. Lanai community member Robin Kaye was contacted (as suggested by Jim Coon), who shared a letter he wrote to the Governor reflecting local opposition to the proposed location:

“I have been fishing in that area for years. During whale season, I have personally witnessed whales and their calves surfacing and swimming on a regular basis. It is not unusual to have seen them two or three times on each of our fishing excursions. Other Lanai fishermen and divers agree; this is a well-used whale area. Further, their “*no fishing in the area*” comment is totally unfounded. The proposed site for their aquaculture farm sits right smack in the middle of Lanai’s most frequented ono, aku, and mahimahi trolling paths. In fact, on the morning of this Advisory Council meeting, I personally counted five fishing boats (from both Lanai and Maui) over a two hour period trolling right through that area.”

Robin Kaye indicated he had not heard anything further on the MFF project, so their website was checked for updates. Finding no current news, a call was placed to the company. Ed Cichon, MFF representative who presented a project overview to the SAC in 2008, confirmed that the community meeting had not gone well due to conflicts over the location. MFF has since selected a new site several miles down shore and is metering the current flow as well as partnering with local citizens in scoping recreational and fishing activity in the area and whale/dolphin sightings. They expect to report findings back to the community, county and SAC later this year.

Tasmania

I attended an inspiring talk on Tasmania’s web based resource management system given by Chris Sampson of their Dept. of Environment, Parks, Heritage and the Arts on Sept. 9. The opening of Kihei Sanctuary’s new Education Center is eagerly awaited where more informative presentations such as this can be made on the new AV equipment recently purchased through the support of Hawai`i Tourism Authority.

Attachment 13

Date: February 3, 2009
To: Bill Friedl, Chair, Hawaiian Islands Humpback Whale National Marine Sanctuary Advisory Council
From: Terry O'Halloran
Subject: Hawaii Superferry and NOAA Section 10, Incidental Take Permit Process.

Hawaii Superferry is engaged with the NOAA Pacific Islands Regional Office in the development of an Incidental Take Permit (ITP) under Section 10 of the ESA. Hawaii Superferry has submitted an application and is committed to move the ITP process forward in a timely manner. To this end, Hawaii Superferry has contracted the services of Entrix, Inc. to assist with the process. Entrix is one of three environmental and natural resource management firms identified by NOAA as having experience with NOAA ITPs and HCPs.

It should be noted that the ITP process is a unique, collaborative effort between Hawaii Superferry and NOAA.

Following is a brief outline of the ITP process and current status. The ITP process consists of three phases: (1) the Habitat Conservation Plan (HCP) development phase; (2) the public review and permit processing phase; and (3) the implementation phase.

Phase 1 – Development Phase

The HCP development phase is the period during which the Applicant's activity is integrated with species conservation. The HCP is developed by the Applicant with technical assistance from NOAA, as needed. While the content of the HCP is the responsibility of the Applicant, it is a collaborative process.

Here the Applicant (Hawaii Superferry) identifies the species they seek to cover (under the ITP), the activities to be covered, the take of covered species that is related to covered activities, and the measures to avoid, minimize and mitigate take and the effects of the take. Each of these topics will be discussed with NOAA.

This phase is complete when the amended ITP application and the supporting HCP are submitted to NOAA. NOAA will formally evaluate Hawaii Superferry's HCP for mandatory elements and how it supports ITP issuance criteria.

Phase 2 – Public Review and Permit Processing

In this phase, NOAA officially notifies the public that they are reviewing the Applicant's application for an ITP and the supporting HCP and is making it available for public review and comment. Near to or preceding the availability of the HCP, National Environmental Policy Act (NEPA) notices are published to announce NOAA's intent to scope and document the effects of their action on the human and natural environment. The Federal action is the issuance of the ITP. NOAA must prepare a draft NEPA document. The public will be provided an opportunity to review and comment on both the HCP and NEPA document.

Public comments are carefully reviewed and responses are prepared for inclusion in final NEPA documents. In the later stages of this process, the public is notified that a final NEPA document and Response to Comments on the Draft NEPA document are available, along with the final HCP. This phase consists of NOAA notifying the public of their evaluation of the input

received, how input was used, and their consideration of whether ITP issuance criteria have been met. NOAA must prepare a Biological Opinion which evaluates the potential jeopardy of ESA (and MMPA) listed species. Typically, if issuance criteria have been met, the Biological Opinion does not conclude jeopardy, and all other processes are complete, NOAA would then be authorized to issue an ITP.

Phase 3 – Implementation

This phase consists of the Applicant conducting its operation with the appropriate mitigation measures of the issued Permit. It also includes reporting, and coordinating with NOAA to address compliance.

